CELEBRATED TRIALS

OF ALL COUNTRIES,

AND

REMARKABLE CASES OF CRIMINAL JURISPRUDENCE.

SELECTED BY

A MEMBER OF THE PHILADELPHIA BAR.

Smith, John Jay

"The Annals of Criminal Jurisprudence exhibit human nature in a variety of positions, at once the most striking, interesting, and affecting. They present tragedies of real life, often heightened in their effect by the grossness of the injustice, and the malignity of the prejudices which accompanied them. At the same time real culprits, as original characters, stand forward on the canvas of humanity as prominent objects for our special study. I have often wondered that the English language contains no book like the *Causes Celebres* of the French, particularly as the openness of our proceedings renders the records more certain and accessible; while our public history and domestic conflicts have afforded so many splendid examples of the unfortunate and the guilty. Such a collection, drawn from our own national sources, and varied by references to cases of the continental nations, would exhibit man as he is in action and principal, and not as he is usually drawn by poets and speculative philosophers."

Burke.

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PREFACE.

The following remarkable and deeply interesting trials have been collected from all the best sources which the public and private libraries of this country afford; the volume embraces many recent cases furnished exclusively by the London Annual Register, and recourse has been had occasionally to manuscripts where printed documents could not be procured.

It is believed that the collection supplies a striking deficiency in the library of the lawyer, physician, and general reader. Much care and caution have been exercised in the compilation, to make it not only an acceptable but a necessary adjunct to the books already accessible, and the reader is confidently referred to the table of contents for the evidence of the variety and value of the materials.

Should this work meet with public approbation, it is the design of the publishers to issue other volumes in succession, for which the most ample matter has been accumulated; to this end many distinguished jurists have voluntarily offered to contribute the most remarkable cases which have come under their observation. The present may therefore be considered an *avant courier* of much that deeply concerns the American reader. No expense will be spared in completing a design having for its object the preservation of separate trials, which, by being scattered in every possible shape, are too often entirely lost, or of difficult access, though eminently curious and worthy of being preserved from oblivion.

It would be unnecessary to detain the reader further than to remark, that this collection will not only be useful to the members of the learned professions, the general reader, and to those whose misfortune it may be to fall under criminal prosecution, but in many instances it illustrates history; and to quote an observation of an eminent practitioner at the bar, who says—"Since it is observable that the best and bravest of mankind are far from being exempted from liability to criminal prosecutions, and that potent malice or prevailing faction have too often attempted the most consummate merit; that learning which shows how life, honour, and innocence are to be defended, when they shall happen to be injuriously attacked, will not be considered inferior to that which instructs us how to defend our less important rights."

CELEBRATED TRIALS.

JOHN THURTELL AND JOSEPH HUNT,

FOR THE MURDER OF WILLIAM WEARE, AT HERTFORD, JANUARY, 1824.

No case of secret murder ever perhaps created in England so great an interest as this. It was so deliberately planned, and the parties, well known in certain circles, were of respectable connexions and good education. Thurtell was the unworthy son of an alderman of Norwich; Probert, one accomplice, lived genteelly, and was respectably connected; and Hunt, a singer by profession, seemed unlikely to engage in such atrocity.

Thurtell was dressed in a plum-coloured frock coat, with a drab waistcoat and gilt buttons, and white corded breeches. His neck had a black stock on, which fitted as usual stiffly up to the bottom of the cheek and the end of the chin, and which therefore pushed forward the flesh on this part of the face so as to give an additionally sullen weight to the countenance. The lower part of the face was unusually large, muscular, and heavy, and appeared to hang like a load to the head, and to make it drop like the mastiff's jowl. The upper lip was long and large, and the mouth had a severe and dogged appearance. His nose was rather small for such a face, but it was not badly shaped: his eyes too were small and buried deep under his protruding forehead, so indeed as to defy detection of their colour. The forehead was extremely strong, bony, and knotted;—and the eyebrows were forcibly marked, though irregular—that over the right eye being nearly straight, and that on the left turning up to a point, so as to give a very painful expression to the whole face. His hair was a good lightish brown, and not worn after any fashion. His frame was exceedingly well knit and athletic.

The deceased was a man addicted to play, and connected with gaming houses. Thurtell had been his acquaintance, and in some practices of play, had been wronged by him of a large sum of money. The other prisoner, Hunt, was a public singer, and also known to Weare, but not in habits of friendship. Probert, who was admitted as an evidence, had been in trade as a spirit dealer, and rented a cottage in Gill's-hill-lane, situated in a by-lane, going out of the London road to St. Albans, and two or three miles beyond Elstree. Probert was himself much engaged in London, and his wife generally resided at the cottage, which was fully occupied in the accommodation of Mrs. Probert, her sister, (Miss Noyes,) some children of Thomas Thurtell's, (the prisoner's brother,) and a maid and boy servant. The deceased had been invited by John Thurtell, to this place, to partake a day or two's shooting; and he met the deceased at a billiard-room, kept by one Rexworthy, on the Thursday night previous to the murder, and they were joined there by Hunt. On the forenoon of Friday, October 24, the deceased was with Rexworthy at the same place, and said he was going for a day's shooting into the country. Weare went from the billiard-rooms, between three and four o'clock, to his chambers in Lyon's Inn, where he packed, in a green carpet bag, some clothes, and a change of linen. He also took with him a double-barrelled gun, and a backgammon board, dice, &c. He left his chambers in a hackney coach before four o'clock, and drove to the New-road, where he went out of the coach and returned after some time, accompanied by another person, and took his things away.

In the morning two men, answering to the description of John Thurtell and

Hunt, went to a pawnbroker's in Mary-le-bone, and purchased a pair of pocket-pistols. And in the middle of the day, Hunt hired a gig, afterwards a horse, and procured a sack and cord. They met the same afternoon, at Tetsall's, in Conduit-street, Thomas Thurtell and Noyes; and Hunt was heard to ask Probert, if he "would be in it,"—meaning what they (Hunt and John Thurtell) were about. Thurtell drove off from Tetsal's between four and five o'clock to take up a friend, as he said to Probert, "to be killed as he travelled with him;" an expression which Probert said at the time he believed to have been a piece of idle bravado. He requested Probert to bring down Hunt in his own gig. Probert, according to Thurtell's request, drove Hunt down in his gig, and, having a better horse, on the road they passed Thurtell and Weare in the gig. They stopped afterwards at a public-house to drink grog, and at Phillimore-lodge, Hunt got out, as he said, by Thurtell's desire, to wait for him. Probert from thence drove along to Gill's-hill cottage, in the lane near which he met Thurtell, on foot alone. He said he had done the business without his assistance, and had killed his man, and, at his desire, Probert returned to bring Hunt to the spot. When Thurtell rebuked Hunt for his absence; "Why, (said the latter,) you had the tools."—"They were no good," replied Thurtell; "the pistols were no better than pop-guns. I fired at his cheek, and it glanced off"—that Weare ran out of the gig, cried for mercy, and offered to return the money he had won of him—that he (Thurtell) pursued him up the lane when he jumped out of the gig. Finding the pistol unavailing, he atttempted to reach him by cutting the penknife across his throat, and ultimately finished him by driving the barrel of the pistol into his head, and turning it in his brains, after he had penetrated the forehead. Five minutes after that period, certain persons, who happened to be in the road, distinctly heard the report of a gun or pistol, which was followed by voices as if in contention. Violent groans were next heard, which became fainter and fainter, then died away altogether. Thurtell arrived at about nine o'clock in the evening at Probert's cottage, having set off from Conduit-street at five o'clock; and he arrived at the cottage, having in his possession the double-barrelled gun, the green carpet bag, and the backgammon-board, which Mr. Weare took with him. Neither Thurtell nor Hunt was expected by Mrs. Probert. With Thurtell she was acquainted; but Hunt was a stranger, and was formally introduced to her. They then supped on some pork chops, which Hunt had brought with him from London. They then went out, as Probert said, to visit Mr. Nicholls, a neighbour of his; but their real object was to go down to the place where the body of Weare was deposited. Thurtell took them to the spot down the lane, and the body was dragged through the hedge into the adjoining field. The body was then enclosed in the sack bought by Hunt. They then effectually rifled the deceased man, Thurtell having informed his companions, that he had, in the first instance, taken part of the property. They then went back to the cottage.

In the course of the evening Thurtell produced a gold watch, without a chain, which occasioned several remarks. He also displayed a gold curb chain, which might be used for a watch, when doubled; or, when singled, might be worn round a lady's neck. On producing the chain it was remarked that it was more fit for a lady than a gentleman; on which Thurtell pressed it on Mrs. Probert, and made her accept it, by putting it round her neck. An offer was afterwards made that a bed should be given to Thurtell and Hunt, which was to be accomplished by Miss Noyes giving up her bed, and sleeping with the children. This was refused, Thurtell and Hunt observing that they would rather sit up. Something, however, occurred, which raised suspicion in the mind of Mrs. Probert. In consequence she did not go to bed, or undress herself. She went to the window and looked out, and saw that Probert, Hunt, and Thurtell were in the garden. They went down to the body, and finding it too heavy to be removed, one of the horses was taken from the stable. The body was then thrown across the horse; and stones

having been put into the sack, the body with the sack was thrown into the pond. Mrs. Probert distinctly saw something heavy drawn across the garden where Thurtell was, and her fears and suspicions being powerfully excited, she went down stairs and listened behind the parlour door. The parties now proceeded to share the booty; to the amount of 6*l.* each. The purse, the pocket-book, and certain papers which might lead to detection, were carefully burned. They remained up late; and Probert, when he went to bed, was surprised to find that his wife was not asleep. Hunt and Thurtell still continued to sit up in the parlour. The next morning, as early as six o'clock, Hunt and Thurtell were both seen out, and in the lane together. Some men who were at work there observed them "grabbling" for something in the hedge. Thurtell observed, "that it was a very bad road, and that he had nearly been capsized there last night." Thinking something might have been lost on the spot, they searched after Hunt and Thurtell were gone. In one place, they found a quantity of blood, further on they discovered a bloody knife, and next they found a bloody pistol—one of the identical pair that were purchased by Hunt, and it bore marks of blood and brains. The spot was afterwards still further examined, and more blood was discovered, which had been concealed by branches and leaves, so that no doubt could be entertained that a murder had been committed. On the following morning, Saturday, the 25th of October, Thurtell and Hunt left Probert's cottage in the gig which Hunt had come down in, carrying away with them the gun, the carpet bag, and the backgammon-board, belonging to Mr. Weare; and these articles were taken to Hunt's lodgings, where they were afterwards found. When Hunt arrived in town on Saturday, he appeared to be unusually gay. He said, "We Turpin lads can do the trick. I am able to drink wine now, and I will drink nothing but wine." It was observed, that Thurtell's hands were very much scratched, and some remark having been made on the subject, he stated, "that they had been out netting partridges."

On Sunday, John Thurtell, Thomas Thurtell, Noyes, and Hunt spent the day at Probert's cottage. Hunt went down dressed in a manner so very shabby as to excite observation. But in the course of the day he went upstairs, and attired himself in very handsome clothes of the deceased, Mr. Weare. Probert wished the body to be removed from his pond, and Thurtell and Hunt promised to come down on Monday, and remove it, which they did. Hunt engaged Mrs. Probert in conversation, while Thurtell and Probert took the body out of the pond, put it into Thurtell's gig, and then gave notice to Hunt that the gig was ready. It appeared that the body was carried to a pond near Elstree, at a considerable distance from Probert's cottage, and there sunk, as it had before been in Probert's pond, in a sack containing a considerable quantity of stones. The parties who heard the report of the pistol in the lane on the Friday evening, and the discovery of blood in the field, led, however, to great alarm amongst the magistracy. Inquiry was set on foot, and Thurtell, Hunt, and Probert were at length apprehended. Strict inquiries were made by the magistrates, but nothing was ascertained to prove to a certainty who was murdered. The body was, however, found on the Thursday, Hunt having confessed where it was deposited. As to Thurtell, it was clear that he was the perpetrator of the murder; and with respect to Hunt and Probert, it was equally clear that they were accessories before the fact, but Probert was admitted king's evidence, and Hunt's first confession, made under promise, saved his life.

On the trial on the 7th of January, 1824, the officers and constables gave their accounts plainly and firmly, as gentlemen in their line generally do; and Mr. Ward, the surgeon of Watford, described the injuries of the deceased in a very intelligent manner. When Ruthven was called there was a great stir in the court, as it was known that he had in his possession several articles of great interest. He took his place in the witness box, and in the course of his examination deposited on the table a pistol, and a pistol key, the knife,

a muslin handkerchief spotted with blood, a shirt similarly stained; and a waistcoat, into the pockets of which bloody hands had been thrust. A coat and a hat marked with blood were also produced. These all belonged to Thurtell, but he looked at them with perfect indifference. Ruthven then produced several articles belonging to the deceased; the gun, the carpet-bag, and the clothes; there was the shooting jacket, with the dog whistle hanging at the button hole, the half-dirty leggings, shooting shoes, and the linen; and even the sight of these things had no effect on either of the prisoners.

Symmonds the constable, when sworn, took from his pocket a white folded paper, which he carefully undid, and produced to the court the pistol with which the murder had been committed. The pan was opened, as the firing had left it, and was smeared with the black of gunpowder and the dingy stain of blood. The barrel was bloody, and in the muzzle a piece of tow was thrust to keep in the murdered man's brains. Against the back of the pan were the short curled hairs of a silver sabled hue, which had been literally dug from the man's head; they were glued to the pan firmly with crusted blood! This deadly and appalling instrument made all shudder, save the murderers, who, on the contrary, looked unconcernedly at it.

Thomas Thurtell, when called, seemed affected—but his brother seemed calm. Miss Noyes was very plain and very flippant. Rexworthy, the billiard-table keeper, spoke of his dead friend with great decision; but the brother of Weare was truly shocked, and his sincere grief exposed the art and trickery of many serious and hysterical witnesses. "The landlords," says an eyewitness, "were all thorough-bred landlords, sleek, sly, and rosy. The ostlers were *rather* overtaken, all except he of the stable in Cross-street, who said all he knew clean out. Old John Butler, of the Bald-faced Stag, had steadied himself with heavy liquor, and he contrived to eject his evidence out of his smock frock with tolerable correctness. Dick Bingham, another hero of the pitchfork, was quite *undisguised*, and he seemed to be confident and clear in proportion to the cordials and compounds."

"Little Addis, Probert's boy, was a boy of uncommon quickness and pretty manner. He was a nice, ingenuous lad. When you saw his youth, his innocence, his pretty face and frankness, you shuddered to think of the characters he had associated with, and the scenes he had witnessed. His little artless foot had kicked up the bloody leaves; he had seen the stain fresh on the murderer's clothes, and his escape from death was miraculous."

"The cook, Susan Woodroofe, had no prepossessing appearance. She had no great skill too in language: like Dan in John Bull, who when asked if he ever *deviated*, said—No!—he always *whistled*:—she, in speaking of the supper, when Mr. Bolland asked her if it was *postponed!* she replied—No! it was *pork!*"

When Probert, the accomplice, was called, he was ushered through the dock into the body of the court. The most intense interest at his entering the witness box was evidently felt by all persons, in which indeed even the prisoners joined. Hunt stood up, and looked much agitated; Thurtell eyed the witness sternly and composedly. Probert did not seem the least ashamed of his situation, but stood firmly up to answer Mr. Gurney, who very solemnly prefaced his examination with charging him to tell the whole truth. The face of Probert was marked with deceit in every lineament. The eyes were like those of a vicious horse, and the lips were thick and sensual. His forehead receded villanously in amongst a bush of grizzly black hair—and his ears projected out of the like cover. His head and legs were too small for his body, and altogether he was an awkward, dastardly, and a wretched looking animal. He gave the following account with no hesitation or shame, and stood up against Mr. Andrews' exposure with a face of brass. Indeed, he seemed to fear nothing but death or bodily pain:—

I occupied a cottage in Gill's-hill-lane six months before October last; my family consisted of Mrs. Probert, her two sisters (Misses Noyes), part of the

summer, a servant maid and a boy; in the month of October, only one Miss Noyes lived with us. In October also I had some children of Thomas Thurtell's, two—none of my own. T. Thurtell is a brother of the prisoner's. I have been for some time past acquainted with the prisoner, John Thurtell; he had been down to my cottage often, sporting with me; he knew the road to my cottage, and all the roads thereabouts, well. Gill's-hill-lane, in which my cottage was, was out of the high road to St. Alban's, at Radlett; my cottage was about a quarter of a mile from the high road. My regular way to the cottage would be to go along the high road through Radlett; there was a nearer way, but that was my usual way. My cottage was fourteen miles and a quarter from Tyburn turnpike. In the latter end of October, the week in which this happened, the prisoner, John Thurtell, lodged at Tetsall's, the Coach and Horses, in Conduit-street; Thomas Thurtell lodged there also. They were there every day that week. On Friday the 24th, I dined at Tetsall's with John Thurtell and Hunt; Thomas Thurtell and Noyes were there also. After dinner Thurtell said something to me about money. Four days previous to the 24th, I borrowed £10 from John Thurtell; he then said, you must let me have it back on the Thursday or Friday; on the Thursday I saw him at Mr. Tetsall's, and he asked me if I had got the £10; I told him I had not; I had not collected any money. He said, I told you I should want it to-day or to-morrow, else it will be £300 out of my pocket; but if you will let me have it to-morrow, it will answer the same purpose. On the next day (Friday) I paid him £5. I borrowed £5 of Mr. Tetsall; that was after dinner. He then said, I think I shall go down to your cottage to-night; are you going down? and asked me if I could drive Hunt down. I said, yes. He said, I expect a friend to meet me this evening a little after five, and if he comes I shall go down. If I have an opportunity, I mean to do him, for he is a man that has robbed me of several hundreds. He added, I have told Hunt where to stop. I shall want him about a mile and a half beyond Elstree. If I should not go down, give Hunt a pound—which I did. Hunt had just come in, and Thurtell said, "there, Joe, there's a pound; if Probert don't come, hire a horse, you know where to stop for me." I do not know that Hunt made any answer; I gave him twenty shillings in silver; Thurtell left the Coach and Horses almost immediately, in a horse and chaise; it was a gray horse; I believe Hunt brought the horse and chaise; Thurtell left a little after five. I afterwards set off to go in my own gig; I took Hunt with me. When I came to the middle of Oxford-street, Hunt got out of the gig to purchase a loin of pork, by my request, for supper. When we came to the top of Oxford-street, Hunt said, "This is the place Jack is to take up his friend at." In our way down, we overtook Thurtell, about four miles from London. Hunt said to me, "There they are; drive by, and take no notice." He added, "It's all right, Jack has got him." There were two persons in the gig—Thurtell and another; I passed them and said nothing. I stopped at a public-house called the Bald-faced Stag, about seven miles from London, two miles short of Edgeware. It was then, perhaps, a quarter to seven. When Hunt said "It's all right," I asked him what was his name? Hunt replied, "You are not to know his name; you never saw him; you know nothing of him." I got out at the Bald-faced Stag; I supplied the house with spirits. Hunt walked on, and said, "I'll not go in, because I have not returned the horse-cloths I borrowed." I stopped about twenty minutes; I then drove on, and overtook Hunt about a quarter of a mile from Edgeware. I took him up, and we drove to Mr. Clarke's, at Edgeware. We had a glass of brandy and water. I should think we did not stop ten minutes; we went into the bar. We stopped a little further in Edgeware, and bought half a bushel of corn; I was out of corn at home; I put it in the gig. Hunt then said, "I wonder where Thurtell is; he can't have passed us." We then drove on to the Artichoke, kept by Mr. Field We got there within about eight minutes of eight. Neither

I nor Hunt got out. We had four or five glasses of brandy and water, waiting for the express purpose of Thurtell coming up; we thought we heard a horse and chaise, and started; I think we stopped more than three-quarters of an hour at Elstree. We went about a mile and a half, to Mr. Phillimore's Lodge, to wait for Thurtell. Hunt said, "I shall wait here for John Thurtell," and he got out on the road. I drove on through Radlett, towards my own cottage; when I came near my own cottage, within about a hundred yards, I met John Thurtell; he was on foot; he says, "Hallo! where's Hunt?" I said I had left him waiting near Phillimore's Lodge for him; John Thurtell said to that, "Oh, I don't want him now, for I have done the trick;" he said he had killed his friend that he had brought down with him; he had ridded the country of a villain who had robbed him of three or four hundred pounds! I said, "Good God! I hope you have not killed the man?" and he said, "It's of no consequence to you, you don't know him, nor you never saw him; do you go back and fetch Hunt, you know best where you left him." I returned to the place where I left Hunt, and found him near the spot where I left him. Thurtell did not go. I said to Hunt, when I took him up, "John Thurtell is at my house—he has killed his friend;" and Hunt said, "Thank God, I am out of it; I am glad he has done it without me; I can't think where the devil he could pass; I never saw him pass anywhere, but I am glad I am out of it." He said, "This is the place we were to have done it" (meaning near Phillimore's Lodge); I asked him who the man was, and he said, "You don't know him, and I shall not tell you;" he said it was a man that had robbed Jack of several hundred pounds, and they meant to have it back again; by that time I had reached my own house; John Thurtell stood at the gate; we drove into the yard; Hunt says, "Thurtell, where could you pass me?" Thurtell replied, "It don't matter where I passed you, I've done the trick—I have done it." Thurtell said, "What the devil did you let Probert stop drinking at his d—d public houses for, when you knew what was to be done?" Hunt said, "I made sure you were behind, or else we should not have stopped." I then took the loin of pork into the kitchen, and gave it to the servant to cook for supper. I then went into the parlour, and introduced Hunt to Mrs. Probert; he had never been there before. Thurtell followed immediately; we had stopped in the yard a little time before we went in. I returned to the parlour, and told Mrs. Probert we were going to Mr. Nichols' to get leave for a day's shooting; before we went out Thurtell took a sack and cord with him. We then went down the lane, I carried the lantern; as we went along, Thurtell said, "I began to think, Hunt, you would not come." Hunt said, "We made sure you were behind." I walked foremost; Thurtell said, "Probert, he is just beyond the second turning." When he came to the second turning, he said, "It's a little further on." He at length said, "This is the place." We then looked about for a pistol and a knife, but could not find either; we got over the hedge, and there found the body lying; the head was bound up in a shawl, I think a red one (here the shawl already produced, was shown to witness); I can't say that is the shawl. Thurtell searched the deceased's pockets, and found a pocket-book containing three five pound notes, a memorandum book, and some silver. John Thurtell said, "This is all he has got, I took the watch and purse when I killed him." The body was then put into a sack, head foremost; the sack came to the knees, and was tied with a cord; it was the sack John Thurtell had taken out of the gig; we then left the body there, and went towards home. Thurtell said, "when I first shot him, he jumped out of the gig and ran like the devil, singing out that 'he would deliver all he had, if I'd only spare his life.'" John Thurtell said, "I jumped out of the gig and ran after him; I got him down, and began to cut his throat, as I thought, close to the jugular vein, but I could not stop his singing out; I then jammed the pistol into his head; I gave it a turn round, and then I knew I had done him." He then said to Hunt, "Joe, you

ought to have been with me, for I thought at one time he would have got the better of me. These d—d pistols are like spits, they are of no use." Hunt said, "I should have thought one of those pistols would have killed him dead, but you had plenty of tools with you;" we then returned to the house and supped. In the course of the evening, after supper, John Thurtell produced a handsome gold watch; I think double cased; it had a gold chain attached to it. He took off the chain, and offered to make Mrs. Probert a present of it, saying it was more fit for a lady than a gentleman. Mrs. Probert refused for some time, but at length accepted of it. He put the watch and seal in his pocket; we had no spare bed that night; I asked when they would go to bed. I said my sister would sleep with Thomas Thurtell's children, and that they could have her bed. They answered they would sleep on the sofa. Hunt sang two or three songs after supper; he is a professional singer. Mrs. Probert and Miss Noyes went to bed between twelve and one. When they were gone, John Thurtell took out a pocket-book, a purse, and a memorandum-book; the purse contained sovereigns; I can't say how many. He took £15 in notes from the pocket-book, and gave Hunt and myself a £5 note and a sovereign each, saying—"That's your share of the blunt." There were several papers in the books; they and the purse and books were burnt; a carpet bag was opened. Thurtell said it had belonged to the man he had murdered; it contained wearing apparel and shooting materials; they were examined and put in again; I think two or three silk handkerchiefs were left out; there was also a backgammon-board, containing dice and cards; I also saw a double-barrelled gun; it was taken out of a case and looked at; all the things were taken away next day, in a gig, by Thurtell and Hunt. After this, Thurtell said, "I mean to have Barber Beaumont and Woods;" Barber Beaumont is a director of a fire-office with which John Thurtell had some dispute; Woods is a young man in London who keeps company with Miss Noyes. It was a general conversation, and I cannot recollect the particulars; he might have mentioned other names, but I can't recollect them. Thurtell said to Hunt, "We must now go out and fetch the body, and put it in the pond." I said, "By G—d, you sha'n't put it in the pond, you'll ruin me else." There is a pond on my ground. Thurtell said, "Had it not been for the mistake of Hunt, I should have killed him in the other lane, and returned to town and inquired of his friends why he had not come." First only Thurtell and Hunt went out; when they came back, Hunt said, "Probert, he is too heavy, we can't carry him; we have only brought him a little way." Thurtell said, "Will you go with us? I'll put the bridle on my horse and fetch him." I went out to the stable with him, and left Hunt waiting near the gate. Thurtell's horse was brought out, and Thurtell and I went down and brought the body on the horse; Hunt did not go with us. We took the body to Mr. Wardle's field, near my gate. Hunt took the horse back to the stable, and came back to the garden, and we dragged the body down the garden to the pond; we put some stones in the sack, and threw the body into the pond.

The man's feet were perhaps half a foot above the water; John Thurtell got a cord, threw it round the feet, and gave me the other end, and I dragged it into the centre of the pond, and it sunk. We all three returned to the cottage, and I went to bed almost immediately. I found my wife up; next morning, I came down about nine o'clock. Thurtell said, in presence of Hunt, that they had been down the lane to look for the pistol and knife, but neither could be found. They asked me to go down the lane and seek them, in the course of the day, which I promised to do.

When I went down the lane, I saw a man at work near the spot, so I took no notice. That morning they went away after breakfast. On Sunday they came down again; and Thomas Thurtell and Mr. Noyes came also. Thomas Thurtell and Hunt came in a gig. Hunt brought a new spade with him. He said it was to dig a grave for deceased that he brought it. Hunt returned

with the gig after setting down Thomas Thurtell, and brought John Thurtell and Mr. Noyes in the chaise. Hunt was very dirtily dressed when he came down, and went up-stairs to change. When he came down, he was well dressed—in almost new clothes. Hunt said the clothes belonged to the deceased; he told me he had thrown a new spade over the hedge into my garden; I saw it afterwards; it was a new spade. John Thurtell and I walked to the pond. He asked me if the body had risen? I said no, and he said it would lay there for a month. In the afternoon, Hewart called, and I went with him to Mr. Nicholls's.

On my return, I told Thurtell and Hunt that Mr. Nicholls had told me that some one had fired a pistol or gun off, in Gill's-hill-lane, on Friday night, and that there were cries of murder, as though some one had been killed. He said it was about eight o'clock, and added, "I suppose it was done by some of your friends to frighten each other." John Thurtell said, "Then I'm baked." I said, "I am afraid it's a bad job, as Mr. Nicholls seems to know all about it; I am sorry it ever happened here, as I fear it will be my ruin." Thurtell said, "Never mind, Probert, they can do nothing with you." I said the body must be immediately taken out of my pond again. Thurtell said, "I'll tell you what I'll do, Probert; after you are all gone to bed, Joe and I will take up the body and bury it." Hunt was present at this. I told them that would be as bad, if they buried it in the garden. John Thurtell said, "I'll bury him where you nor no one else can find him." As John Thurtell was going into the parlour, Hunt said, "Probert, they can do nothing with you or me, even if they do find it out, as we were neither of us at the murder." Thurtell and Hunt sat up all that night; I, Noyes, and Thomas Thurtell went to bed. Thomas Thurtell slept with his children. In the morning, John Thurtell and Hunt said they went to dig a grave, but the dogs were barking all night, and they thought some one was about the ground. John Thurtell said, "Joe and I will come down to-night and take him quite away, and that will be better for you altogether." Thomas Thurtell and Hunt, and my boy, Addis, went away in one chaise after breakfast, and John Thurtell, Thomas Noyes, and Miss Noyes in another. The boy was sent to town to be out of the way. That evening, John Thurtell and Hunt came again in a gig about nine; they took supper; after supper John Thurtell and I went to the stable, leaving Hunt talking to Mrs. Probert. Thurtell said, "Come, let's get the body up; while Hunt is talking to Mrs. Probert, she will not suspect." We went to the pond, and got the body up; we took it out of the sack, and cut the clothes all off it. We left the body naked on the grass, and returned to the parlour; we then went to the stables, and John Thurtell went to his gig, and took out a new sack and some cord; we all three returned to the pond, and put the body head-foremost into the sack; we all three carried it to the lower garden gate; we left Hunt waiting with the body, while Thurtell and I went round the pond. I carried the bundle of clothes, and threw it into the gig; we then put the horse too, and Thurtell said, "we had better leave the clothes here, Probert, there is not room for them." The clothes were left, and the body was put into the gig. I refused to assist them in settling the body in the gig. They went away. I, next morning, burnt some of the clothes, and threw the rest away in different places. I was taken into custody on the Tuesday evening after they went away.—

Mrs. Probert, his wife, gave her evidence drop by drop, and not then without great *squeezing*. Every dangerous question overcame her agitated nerves, and she very properly took time to recover before she answered. The following was the sum of her evidence:—

I remember the night of the 24th of October, when Mr. John Thurtell and Mr. Hunt came to Gill's-hill Cottage, to have heard the sound of a gig passing my cottage. It was about eight o'clock, I think. The bell of our cottage was rung nearly an hour after. After that ringing nobody came into our house. My husband came home that night nearly at ten. I came down

stairs, found Mr. Probert, John Thurtell, and a stranger in the parlour. My husband introduced that stranger, as Mr. Hunt, to me. I saw John Thurtell take out a gold chain, which he showed to me. It was a gold watch chain, with a great deal of work about it; it was such a chain as this I think (the chain was shown her). He offered to make it a present to me; I refused it for some time, and at last he gave it to me (she was shown the box and chain produced by the constable at Watford). I recollect giving the box and the chain to the constable, in the presence of the magistrates. When I and Miss Noyes went up-stairs, we left John Thurtell, Hunt, and Mr. Probert in the room. I did not go to bed immediately; I went from my room to the stairs to listen; I leaned over the banisters. What I heard in leaning over the banisters was all in a whisper. What I heard at first was, I thought, about trying on clothes. The first I heard was, "This, I think, will fit you very well." I heard a noise like a rustling of papers on the table; I heard also something like the noise of papers thrown into the fire. I afterwards went up to my own chamber. Out of doors I saw something; I looked from my window, and saw two gentlemen go from the parlour to the stable; they led a horse out of the stable, and opened the yard gate and let the horse out. Some time after that I heard something in the garden; I heard something dragged, as it seemed, very heavily; it appeared to come from the stable to the garden; the garden is near the back gate; it was dragged along the dark walk; I had a view of it when they dragged it out of the dark walk; it seemed very large and heavy; it was in a sack. It was after this I heard the rustling of papers, and the conversation I have described. After the sack was dragged out of the dark walk, I had a view of it until it was half-way down the walk to the pond. I had a good view of it so far. After this I heard a noise like a heap of stones thrown into a pit; I can't describe it any other way; it was a hollow sound. I heard, besides what I have before mentioned, some further conversation. The first I heard was, I think, Hunt's voice; he said, "Let us take a £5 note each." I did not hear Thurtell say any thing; then —I am trying to recollect—I heard another voice say, "We must say there was a hare thrown up in the gig on the cushion—we must tell the boy so in the morning." I next heard a voice, I can't exactly say whose, "We had better be off to town by four or five o'clock in the morning;" and then, I think, John Thurtell it was, who said, "We had better not go before eight or nine o'clock;" and the parlour door then shut. I heard John Thurtell say also (I think it was his voice), "Holding shall be next." I rather think it was Hunt who next spoke; he asked, has he (Holding) got money? John Thurtell replied, "It is not money I want, it is revenge; it is," said John Thurtell, "Holding who has ruined my friend here." I did not at first understand who this friend was; I believe it meant Mr. Probert, my husband; I cannot say whether Holding had any thing to do in the transactions of my husband's bankruptcy. "It was Holding," said John Thurtell, "who ruined my friend here, and destroyed my peace of mind." My husband came to bed about half-past one or two o'clock, I believe it was; I did not know exactly the hour.—

At the close of the evidence for the crown, although in answer to his lordship's inquiry, the jury decided on going through the case—they revoked that decision at the desire of John Thurtell, who strongly but respectfully pressed on their attention the long and harassing time he had stood at that bar; and begged for a night's cessation to recruit his strength previous to his making his defence. Hunt said nothing: but Thurtell's manner was too earnest to admit of denial, and the court adjourned—an officer having been sworn to keep the jury apart from all persons.

The court reassembled on the following morning, and the trial proceeded.

Ruthven and Thomas Thurtell were called on some trifling points; and in a short time Mr. Justice Park informed John Thurtell, that he was ready to hear any observations he had to make. Thurtell intimated in a murmur to

Wilson, which Wilson interpreted to the court, that he wished his witnesses to be examined first, but this was refused, as being contrary to the practice.

Thurtell now seemed to retire within himself for half a minute,—and then slowly,—the crowd being breathlessly silent and anxious,—drawing in his breath, gathering up his frame, and looking very steadfastly at the jury, he commenced his defence. He spoke in a deep, measured, and unshaken tone; accompanying it with a rather studied and theatrical action:—

My Lord, and Gentlemen of the Jury,—Under greater difficulties than ever man encountered, I now rise to vindicate my character and defend my life. I have been supported in this hour of trial, by the knowledge that my cause is heard before an enlightened tribunal, and that the free institutions of my country have placed my destiny in the hands of twelve men, who are uninfluenced by prejudice, and unawed by power. I have been represented by the press, which carries its benefits or curses on rapid wings from one extremity of the kingdom to the other, as a man more depraved, more gratuitously and habitually profligate and cruel, than has ever appeared in modern times. I have been held up to the world as the perpetrator of a murder, under circumstances of greater aggravation, of more cruel and premeditated atrocity, than it ever before fell to the lot of man to have seen or heard of. I have been held forth to the world as a depraved, heartless, remorseless, prayerless villain, who had seduced my friend into a sequestered path, merely in order to despatch him with the greater security—as a snake who had crept into his bosom only to strike a sure blow—as a monster, who, after the perpetration of a deed from which the hardest heart recoils with horror, and at which humanity stands aghast, washed away the remembrance of my guilt in the midst of riot and debauchery. You, gentlemen, must have read the details which have been daily, I may say hourly, published regarding me. It would be requiring more than the usual virtue of our nature to expect that you should entirely divest your minds of those feelings, I may say those creditable feelings, which such relations must have excited; but I am satisfied, that as far as it is possible for men to enter into a grave investigation with minds unbiassed, and judgments unimpaired, after the calumnies with which the public mind has been deluged—I say, I am satisfied, that with such minds and such judgments, you have this day assumed your sacred office. The horrible guilt which has been attributed to me, is such as could not have resulted from custom, but must have been the innate principle of my infant mind, and have "grown with my growth, and strengthened with my strength." But I will call before you gentlemen whose characters are unimpeachable, and whose testimony must be above suspicion, who will tell you, that the time was when my bosom overflowed with all the kindly feelings; and even my failings were those of an improvident generosity and unsuspecting friendship. Beware then, gentlemen, of an anticipated verdict. Do not suffer the reports you have heard to influence your determination. Do not believe that a few short years can have reversed the course of nature, and converted the good feelings which I possessed into the spirit of malignant cruelty to which only demons can attain. A kind, affectionate, and religious mother directed the tender steps of my infancy in the paths of piety and virtue. My rising youth was guided in the way that it should go by a father whose piety was universally known and believed—whose kindness and charity extended to all who came within the sphere of its influence. After leaving my paternal roof, I entered into the service of our late revered monarch, who was justly entitled the "father of his people." You will learn from some of my honourable companions, that while I served under his colours, I never tarnished their lustre. The country which is dear to me I have served. I have fought for her. I have shed my blood for her. I feared not in the open field to shed the blood of her declared foes. But oh! to suppose that on that account I was ready to raise the assassin's arm against my friend, and with that view to draw him into secret places for his destruction—it is monstrous, horrible,

incredible. I have been represented to you as a man who was given to gambling, and the constant companion of gamblers. To this accusation, in some part, my heart with feeling penitence pleads guilty. I have gambled. I have been a gambler, but not for the last three years. During that time I have not attended or betted upon a horse-race, or a fight, or any public exhibition of that nature. If I have erred in these things, half of the nobility of the land have been my examples; some of the most enlightened statesmen of the country have been my companions in them. I have indeed been a gambler—I have been an unfortunate one. But whose fortune have I ruined?—whom undone? My own family have I ruined—I have undone myself! At this moment I feel the distress of my situation. But, gentlemen, let not this misfortune entice your verdict against me. Beware of your own feelings, when you are told by the highest authority, that the heart of man is deceitful above all things. Beware, gentlemen, of an anticipated verdict. It is the remark of a very sage and experienced writer of antiquity, that no man becomes wicked all at once. And with this, which I earnestly request you to bear in mind, I proceed to lay before you the whole career of my life. I will not tire you with tedious repetitions, but I will disclose enough of my past life to inform your judgments; leaving it to your clemency to supply whatever little defects you may observe. You will consider my misfortunes, and the situation in which I stand—the deep anxiety that I must feel—the object for which I have to strive. You may suppose something of all this; but oh! no pencil, though dipped in the lines of heaven, can portray my feelings at this crisis. Recollect, I again entreat you, my situation, and allow something for the workings of a mind little at ease; and pity and forgive the faults of my address.

The conclusion of the late war, which threw its lustre upon the fortunes of the nation generally, threw a gloomy shade over mine. I entered into a mercantile life with feelings as kind, and with a heart as warm, as I had carried with me in the service. I took the commercial world as if it had been governed by the same regulations as the army. I looked upon the merchants as if they had been my mess-companions. In my transactions I had with them my purse was as open, my heart as warm, to answer their demands, as they had been to any former associates. I need not say that any fortune, however ample, would have been insufficient to meet such a course of conduct. I, of course, became the subject of a commission of bankruptcy. My solicitor, in whom I had foolishly confided as my most particular friend, I discovered, too late, to have been a traitor—a man who was foremost in the ranks of my bitterest enemies. But for that man, I should still have been enabled to regain a station in society, and I should have yet preserved the esteem of my friends, and, above all, my own self-respect. But how often is it seen that the avarice of one creditor destroys the clemency of all the rest, and for ever dissipates the fair prospects of the unfortunate debtor. With the kind assistance of Mr. Thomas Oliver Springfield, I obtained the signature of all my creditors to a petition for superseding my bankruptcy. But just then, when I flattered myself that my ill fortune was about to close—that my blossoms were ripening—there came "a frost—a nipping frost." My chief creditor refused to sign unless he was paid a bonus of £300 upon his debt beyond all the other creditors. This demand was backed by the man who was at the time his and my solicitor. I spurned the offer—I awakened his resentment. I was cast upon the world—my all disposed of—in the deepest distress. My brother afterwards availed himself of my misfortune, and entered into business. His warehouses were destroyed by the accident of a fire, as has been proved by the verdict of a jury on a trial at which the venerable judge now present presided. But that accident, unfortunate as it was, has been taken advantage of in order to insinuate that he was guilty of crime, because his property was destroyed by it, as will be proved by the verdict of an honest and upright jury in an action for conspi-

racy, which will be tried ere long before the Chief Justice of the King's Bench. A conspiracy there was—but where? Why, in the acts of the prosecutor himself, Mr. Barber Beaumont, who was guilty of suborning witnesses, and who will be proved to have paid for false testimony. Yes; this professed friend of the aggrieved—this pretended prosecutor of public abuses —this self-appointed supporter of the laws, who panders to rebellion, and has had the audacity to raise its standard in the front of the royal palace—this man, who has just head enough to contrive crime, but not heart enough to feel its consequences—this is the real author of the conspiracy which will shortly undergo legal investigation. To these particulars I have thought it necessary to call your attention, in language which you may think perhaps too warm—in terms not so measured, but that they may incur your reproof. But—

> "The flesh will quiver where the pincers tear,
> The blood will follow where the knife is driven.

You have been told that I intended to decoy Woods to his destruction, and he has said that he saw me in the passage of the house. I can prove by honest witnesses, fellow-citizens of my native city of Norwich, that I was *there* at that time; but, for the sake of an amiable and innocent female, who might be injured, I grant to Mr. Woods the mercy of my silence. When before this, did it ever fall to the lot of any subject to be borne down by the weight of calumny and obloquy which now oppresses me? The press, which ought to be the shield of public liberty, the avenger of public wrongs—which, above all, should have exerted itself to preserve the purity of its favourite institution, the trial by jury—has directed its whole force to my injury and prejudice; it has heaped slander upon slander, and whetted the public appetite for slanders more atrocious; nay, more, what in other men would serve to refute and repel the shaft of calumny, is made to stain with a deeper dye the villanies ascribed to me. One would have thought, that some time spent in the service of my country would have entitled me to some favour from the public under a charge of this nature. But no; in my case the order of things is changed—nature is reversed. The acts of times long since past have been made to cast a deeper shadow over the acts attributed to me within the last few days; and the pursuit of a profession, hitherto held honourable among honourable men, has been turned to the advantage of the accusation against me. You have been told that after the battle, I boasted of my inhumanity to a vanquished, yielding, wounded enemy—that I made a wanton sacrifice of my bleeding and supplicating foe, by striking him to the earth with my cowardly steel; and that, after this deed of blood, I coldly sat down to plunder my unhappy victim. Nay, more—that with folly indescribable and incredible, I boasted of my barbarity as of a victory. Is there an English officer, is there an English soldier, or an English man, whose heart would not have revolted with hatred against such baseness and folly? Far better, gentlemen, would it have been for me, rather than have seen this day, to have fallen with my honourable companions, stemming and opposing the tide of battle upon the field of my country's glory. Then my father and my family, though they would have mourned my loss, would have blessed my name, and shame would not have rolled its burning fires over my memory!——Before I recur to the evidence brought against my life, I wish to return my most sincere thanks to the high sheriff and the magistrates for their kindness shown to me. I cannot but express my unfeigned regret at a slight misunderstanding which has occurred between the Rev. Mr. Lloyd, the visiting magistrate, and my solicitor. As it was nothing more than a misunderstanding, I trust the bonds of friendship are again ratified between us all. My most particular gratitude is due to the Rev. Mr. Franklin, whose kind visits and pious consolations have inspired me with a deeper sense of the awful truths of religion, and have trebly armed my breast with fortitude to serve me on this day. Though last, not least —let me not forget Mr. Wilson, the governor of the prison, and the fatherly

treatment which he has shown me throughout. My memory must perish ere I can forget his kindness. My heart must be cold ere it can cease to beat with gratitude to him, and wishes for the prosperity of his family.

* * * * * * * *

Here the prisoner read a long written comment on the weaker parts of the evidence;—the stronger and indeed the decisive parts he left untouched. This paper was either so ill-written, or Thurtell was so imperfect a reader, that the effect was quite fatal to the previous flowery appeal to the jury. He stammered, blundered, and seemed confused throughout. When he finished his book, and laid aside the paper, he seemed to return with joy and strength to his memory, and to muster up all his might for the peroration.

"And now, gentlemen, having read those cases to you, am not I justified in saying, that unless you are thoroughly convinced that the circumstances before you are absolutely inconsistent with my innocence, I have a claim to your verdict of acquittal? Am I not justified in saying, that you might come to the conclusion that all the circumstances stated might be true, and yet I be innocent? I am sure, gentlemen, you will banish from your minds any prejudice which may have been excited against me, and act upon the principle that every man is to be deemed innocent until he is proved guilty. Judge of my case, gentlemen, with mature consideration, and remember that my existence depends upon your breath. If you bring in a verdict of guilty, the law afterwards allows no mercy. If, upon a due consideration of all the circumstances, you shall have a doubt, the law orders, and your own consciences will teach you to give me the benefit of it. Cut me not off in the summer of my life! I implore you, gentlemen, to give my case your utmost attention. I ask not so much for myself as for those respectable parents whose name I bear, and who must suffer in my fate. I ask it for the sake of that home which will be rendered cheerless and desolate by my death. Gentlemen, I am incapable of any dishonourable action. Those who know me best know that I am utterly incapable of an unjust and dishonourable action, much less of the horrid crime with which I am now charged. There is not, I think, one in this court who does not think me innocent of the charge. If there be—to him or to them, I say in the language of the apostle, 'Would to God ye were altogether such as I am, save these bonds.' Gentlemen, I have now done. I look with confidence to your decision. I repose in your hands all that is dear to the gentleman and the man! I have poured my heart before you as to my God! I hope your verdict this day will be such as you may ever after be able to think upon with a composed conscience; and that you will also reflect upon the solemn declaration which I now make—I—am—innocent!—So—help—me——God!"

The solid, slow, and appalling tone in which he wrung out these last words can never be imagined by those who were not auditors of it: he had worked himself up into a great actor—and his eye for the first time during the trial became alive and eloquent; his attitude was impressive in the extreme. He clung to every separate word with an earnestness which cannot be described, as though every syllable had the power to buoy up his sinking life, and that these were the last sounds that were ever to be sent into the ears of those who were to decree his doom! The final word, God! was thrown up with an almost gigantic energy; and he stood after its utterance with his arms extended, his face protruded, and his chest dilated, as if the spell of the sound were yet upon him, and as though he dared not move lest he should disturb the still echoing appeal! He then drew his hands slowly back, pressed them firmly to his breast, and sat down, half-exhausted, in the dock.

When he first commenced his defence, he spoke in a steady artificial manner, after the style of forum orators; but as he warmed in the subject, and felt his ground with the jury, he became more unaffectedly earnest and naturally solemn; and his mention of his mother's love and his father's piety drew the tear up to his eyes almost to falling. He paused; and though

pressed by the judge to rest, to sit down, to desist, he stood up resolute against his feelings, and finally, with one vast gulp, swallowed down his tears! He wrestled with grief, and threw it! When speaking of Barber Beaumont, the *tiger* indeed came over him, and his very voice seemed to escape out of his keeping. There was such a savage vehemence in his whole look and manner, as quite to awe his hearers. With an unfortunate quotation from a play, in which he long had acted too bitterly,—the Revenge! he soothed his maddened heart to quietness, and again resumed his defence, and for a few minutes in a doubly artificial serenity. The tone in which he wished that he had died in battle, resembled Othello's farewell to the pomp of war; and the following consequences of such a death, was as grandly delivered by Thurtell as it was possible to be! "Then my father and my family, though they would have mourned my loss, would have blessed my name; and *shame would not have rolled its burning fires over my memory!*" Such a performance, for a studied performance it assuredly was, has seldom been seen *on* the stage, and certainly never *off*. Thus to act in the very teeth of death, demands a nerve, which not one man in a thousand ever possesses.

When Hunt was called upon for his defence, his feeble voice and shrinking manner were doubly apparent, from the overwrought energy which his companion had manifested. He complained of his agitation and fatigue, and requested that a paper which he held in his hand might be read for him; and the clerk of the arraigns read it according to his request in a very feeling manner. It was prudently and advisedly composed by Mr. Harmer. Reliance was placed on the magistrates' promise. When the paper was concluded, Hunt read a few words on a part of Probert's evidence, in a poor dejected voice, and then leant his head upon his hand. He was evidently wasting away minute by minute. His neck-cloth had got quite loose, and his neck looked gaunt and wretched.

Mr. Justice Park summed up at great length, and Thurtell, with an untired spirit, superintended the whole explanation of the evidence; interrupting the judge respectfully but firmly, when he apprehended any omission, or conceived any amendment capable of being made. The charge to the jury occupied several hours; and the jury then requested leave to withdraw. Hunt at this period became much agitated, and as he saw them about to quit the box, he entreated leave to address them; but on his counsel learning and communicating to the judge what the prisoner had to say, the jury were directed to proceed to the consideration of their verdict.

During their absence Thurtell conversed unalarmed with persons beneath and around him: Hunt stood up in the deepest misery and weakness. Twenty minutes elapsed; and the return of the jury was announced.

Whilst way was making through the throng, Hunt leant over the dock, and searched with an agonized eye for the faces of his dooms-men! As they, one by one, passed beneath him, he looked at their countenances with the most hungry agony: he would have devoured their verdict from their very eyes! Thurtell maintained his steadiness.

The foreman delivered the verdict of *Guilty*, in tears, and in a tone which seemed to say, "We have felt the defence—we have tried to find him innocent—but the evidence is too true!"—respecting Thurtell, he uttered with a subdued sigh, he is *guilty*.

Thurtell shook not to the last: Hunt was broken down—gone! When asked why sentence of death should not be passed, the latter said nothing, so sunk was he in grief; but Thurtell stood respectfully up, inclining over the dock towards the judge, requesting his merciful postponement of his death from the Friday to Monday; not for himself, but for his friends! Having pressed this on the judge in a calm yet impressive tone, he stood silently waiting his doom.

The judge had put on his black hat—the hat of death—before this appeal; he heard it, and then gave the signal to the crier; who spoke out to the breath

less court, those formal yet awful words: "*Be silent in the court while sentence of death is passed upon the prisoners!*" His own voice being the only sound that broke the silence.

The sentence was passed. The prisoners were doomed. The world was no longer for them!

Hunt sobbed aloud in the wildness of his distress; his faculties seemed thrown down. Thurtell, whose hours were numbered, bore his fate with an unbroken spirit. While the very directions for his body's dissection were being uttered, he consumed the pinch of snuff which had to that moment been pausing in his fingers! He then shook hands with a friend under the dock, and desired to be remembered to others! Almost immediately the sentence was passed, Wilson handcuffed both the prisoners; and in a few minutes they were removed.

I confess, says an eyewitness, I myself was shaken. I was cold and sick. I looked with tumultuous feelings at that desperate man, thus meeting death as though it were an ordinary circumstance of his life; and when he went through the dark door, he seemed to me gone to his fate. It struck me that death then took him! I never saw him more.

Thurtell on the drop met his death, as he met his trial, without a tremor. His life had been one long scene of vice, but he had iron nerves and a sullen low love of fame,—even black fame,—which stimulated him to be a hero, though but of the gallows. He had learned his defence by heart, and often boasted of the effect it would have.

I know it to be a fact, says the eyewitness already quoted, that Thurtell said about seven hours before his execution, "It is perhaps wrong in my situation, but I own I should like to read Pierce Egan's account of the great fight yesterday" (meaning that between Spring and Langan), having just inquired how it terminated.

Thurtell was executed at Hertford, January the 9th; but Hunt, in consequence of the pledge made before his confession, was sent to the Hulks at Woolwich, and afterwards to New South Wales.

HENRY FAUNTLEROY, ESQ.

FOR FORGERY—AT THE OLD BAILEY, OCTOBER 30, 1824.

At ten o'clock Mr. Justice Park and Mr. Baron Garrow took their seats on the bench, accompanied by the lord mayor. The attorney-general entered the court at the same time, and took his seat at the table, next Mr. Freshfield, the bank solicitor.

At five minutes past ten o'clock Mr. Henry Fauntleroy was conducted to the bar, between the two city marshals, the head turnkey of Newgate, and accompanied by Mr. Harmer, his solicitor. He was dressed in a full suit of black, and the firmness which he displayed in the morning seemed for the moment to have deserted him, when he was exposed at the bar to the gaze of the court. His step was tremulous; his face pale, and much thinner than when he was first examined at Marlborough-street; his gray hair had rather a lighter hue, as if from the mixture of a little powder; he never for a moment raised his head; but, placing his hands upon the front of the dock, stood with dejected mien while the preliminary forms of the trial were arranging.

The deputy clerk of the arraigns opened the business by addressing the prisoner at the bar in the usual form, and arraigning him upon sever different indictments for forgery, in the following manner, the first:

Henry Fauntleroy—you stand indicted for that you on the 1st of June, in the 55th year of the late king, in the parish of St. Mary-la-Bonne, did feloniously and falsely make and forge, and counterfeit a certain deed, purporting to bear the name of Frances Young, for the transfer of £5450 long annuities of her moneys in the stocks established by the act of the 5th of the late king George II., with intent to defraud the said Frances Young of the said stock.

A second count laid the crime, as with intent to defraud the Governor and Company of the Bank of England.

A third count laid the indictment, as for causing the said instrument to be forged.

A fourth count, for feloniously uttering and disposing of the said instrument, knowing it to be forged; and there were three other counts, varying the mode of specifying the charge, according to the technical subtleties of pleading. When this abstract of the first indictment was read,

The deputy clerk of the arraigns asked the prisoner, "Henry Fauntleroy, how say you—are you guilty or not guilty of the said felony?"

The prisoner, in a faint voice, replied, Not Guilty.

The deputy clerk. How will you be tried?—The prisoner, still in the same low tone of voice, and prompted by the Governor of Newgate, answered, by God and my country.

The prisoner was then successively arraigned on the following six indictments:—the second, for that he, on the 3d of June, in the 55th year of the late king, in the parish of St. Mary-la-Bonne, did falsely forge and counterfeit, and cause to be falsely forged and counterfeited, a certain transfer, purporting to be that of Frances Young, for £5000 of her annuities, with intent to defraud her. The forgery and fraud were also laid, as in the first indictment, as with intent to defraud the Governor and Company of the Bank of England. There were counts also for the wilful uttering and disposing of the same, with a variation of the names alleged to be defrauded.

The third indictment, which was laid in the same technical form as the preceding, was for forging the transfer of the stock held in the name of T. Lister, Esq. of Wexford, in Ireland, and uttering the same.

The fourth indictment was for forging a transfer of £3000 stock, also uttered in the same name as the foregoing, on the 16th of December, in the 60th year of the late king's reign.

The fifth indictment was for forging the transfer of £435 stock, to defraud the bank and John Griffiths, on the 30th of June, in the fourth year of the present king's reign.

The sixth indictment was for on the same date forging and putting away a transfer of £500 stock held in the same name; and the seventh indictment was for forging and uttering, on the 2d November last, a power of attorney to transfer £5300 annuities, entered in the name of Jacob Tubbs.

To each of these seven indictments the prisoner, in the same subdued tone of voice, and without raising his eyes from the bar, pleaded Not Guilty, and put himself for trial upon God and his country.

The reading of these indictments occupied the court twenty-five minutes. Towards the close of the reading,

Mr. Gurney rose, and applied to the court for permission to have the prisoner accommodated with a chair at the bar.

Mr. Justice Park. The application is, of course, made on the ground of the prisoner's indisposition.

Mr. Gurney. Certainly, my lord.

Mr. Justice Park. O, then, let him have a chair.

A chair was immediately handed to the prisoner, who sat upon it at the right hand corner of the dock, leaning his head upon his hand, and covering the greater part of his face with a white handkerchief, his whole demeanour being at this time that of a person labouring under deep despondency.

The attorney-general then rose, and stated the case for the prosecution as

follows:—"May it please you, my lords and gentlemen of the jury,—You have heard during the reading of this indictment, that the prisoner at the bar stands charged with fraudulently forging and uttering a certain power of attorney for the transfer of certain stock entered in the Bank of England in the name of Miss Frances Young. It is my duty, on the part of the prosecution, to state to you the circumstances out of which, according to my instructions, the present prosecution has sprung; and afterwards to lay before you the evidence which I have to offer in support of this indictment.

"The prisoner at the bar, gentlemen, was well known as a partner in the banking-house of Marsh, Sibald, and Co., of Berner's-street, which was established about thirty years ago. His father was a partner in the original firm—he had previously been an active clerk in a banking-house in the city, and the partners who established the firm, not being equally men of business themselves, gave him a share to avail themselves of his practical information in the management of their affairs. The elder Mr. Fauntleroy died in the year 1807, and his situation was immediately occupied by his son, the prisoner at the bar, upon whom, also, for his practical knowledge of business, and the comparative superiority which he had in this respect over his co-partners, nearly the whole of the actual business devolved. In the year 1815, Miss Frances Young, of Chichester, became a customer to the firm, and had then entered in her name, at the bank, the sum of £5450 in what were called the three per cent. consuls. She gave the firm of Marsh and Co. a power of attorney to receive the dividends in her name, but gave them no power whatever to sell or otherwise dispose of the principal. In May, 1815, however, an application was made at the bank, and represented as having been so made in behalf of this lady, to sell, by her power of attorney, £5000 of this stock.

"You are probably aware of the forms prescribed by the Bank of England in transacting the business of these transfers. The applicant goes to the bank, and obtains a slip of paper, which he fills up with the name of the party in whose behalf he applies, he describes the stock in the bank, the amount and particulars required to be transferred, and the name and address of the person to whom the transfer is to be made. Upon receiving these instructions in the form inserted upon the slip of paper, the bank clerk, to whom it is delivered, hands over a power of attorney, which is to be transmitted to the person who is to make the transfer, for the purpose of receiving the requisite signature. It is customary at the bank to preserve these slips of paper, but in this instance the particular slip has been lost, and it cannot therefore be said to whom it was delivered, it being usual to endorse the name of the party on the slip. But the power of attorney, which was prepared according to the slip so made is referred, with the necessary attestations of the witnesses. There must be to these powers of attorney two attesting witnesses, with the description of their respective names and addresses. This power of attorney purported to be signed by Frances Young, and that signature would be proved to be a forgery. The attesting witnesses were John Watson and James Tyson, clerks in the bank of Marsh and Co., and their signatures were also forgeries; for they never transacted any business with Miss Frances Young, and never executed any transfer of stock for her. In all these documents it is required by the bank that the date shall be set forth in words at length. This is so done in this forged transfer, and it will be proved to be in the handwriting of the prisoner at the bar in all its parts.

"It must be quite clear, therefore, that the forgery has been committed either by the prisoner, or with his knowledge. The attesting witnesses are his clerks, men whose handwriting must have been known to him, and a forgery of which he must at once have detected if brought to him by a third party. The practice at the Bank of England was, that when these transfers, after being duly filled, were executed, they must be deposited for twenty-four hours with the clerk, for the purpose of being compared with the books, and

for such other inspection and precaution as were deemed necessary on these occasions for the security of property, so far as time and circumstances allowed. After all these preliminary steps, the applicant was further called upon, before the instrument was completed, to write at the bottom these words: 'I demand this power to be executed in my name,' signed by the party. On the 31st of May, or the 1st of June, the prisoner at the bar attended in person at the bank, and demanded in due form the execution of the said power of attorney. So that here you will have before you a power of attorney prepared in the prisoner's handwriting, purporting to be executed by Frances Young, purporting to be attested by two of his clerks, with whose handwriting, I repeat, he must have been necessarily acquainted; and he himself presenting the instrument, and demanding that it be executed in the usual manner. But sufficient as this would be to prove the case, it is not all, for I am about to state to you that we have besides a document of a character so extraordinary, so singularly complete in all its parts, as to leave no possible doubt that the prisoner at the bar was the party who had committed the offence. When the prisoner was taken into custody in his own counting house, he, in the presence of the officer, locked his private desk, with a key which was then attached to his watch; that key was afterwards taken from him by the officer; and when the respectable solicitor for the bank, who conducts this prosecution, went to search the house in Berner's-street, for the prisoner's papers, to ascertain whatever particulars he could therein find respecting these transactions, he found in one of the rooms of Messrs. Marsh and Co.'s bank, in which tin cases, containing title deeds of their customers, were deposited, and on which the names of the owners were inscribed, one tin box without a name. This led him to examine it. The key was found in the prisoner's private desk, which he had himself locked in the presence of the officer, and on opening this box was found a number of private papers belonging to the prisoner, and among them the extraordinary document of which I have apprized you, and which ran thus, all in the handwriting of the prisoner:—

"'*Consols*, 11,151*l. standing in the name of my trusteeship;* 3000*l. E. W. Young;* 6000*l. Consols, General Young;* 5000*l. Long Annuities, Frances Young; another* 6000*l.; Lady Nelson*, 11,595*l.; Mrs. Ferrer*, 20,000*l.* 4 *per cents.; Earl of Ossory*, 7000*l.; T. Owen*, 9400*l.; J. W. Parkins*, 4000*l.; Lord Aboyne*, 6000*l.; P. Moore and John Marsh*, 21,000.' This paper contained a total of sums considerably exceeding 100,000*l.*, was all written in the prisoner's handwriting, and these words, in the same hand, followed, and concluded the facts of the prisoner's guilt.—'*In order to keep up the credit of our house, I have forged powers of attorney, and have thereupon sold out all these sums, without the knowledge of any of my partners. I have given credit in the accounts for the interest when it became due.*

"*May 7th*, 1816. Signed, *Henry Fauntleroy.*'

"These words followed:—

"'*The bank began first to refuse our acceptances, and thereby to destroy the credit of our house, they shall therefore smart for it.*'

"This is the extraordinary document to which I allude, and was there ever a record of a fraud more intelligible, and yet more negligently kept? There is no doubt, I think, that when the prisoner at the bar drew up this singular and conclusive document, that he contemplated some intention for which it was applicable, perhaps to abscond, and protect his partners from any suspicion or participation in his acts. Be the intention, however, what it may, if to abscond, it was clear the prisoner had subsequently altered his intention; and at all events, nothing but unaccountable negligence could have prevented him from afterwards destroying a document of such a nature, and so fatal to his character. The Bank of England, in consequence of this information, proceeded to examine the private accounts kept by the prisoner with his firm; and they there found that the accounts of the parties, whose moneys were

fraudulently transferred, were regularly kept up, and the interest upon the dividends as regularly carried to them every half year, as if the original stock remained in being. In the particular case before you, the broker (Mr. Spurling), employed by the prisoner at the bar, sold out the stock in question to the amount of £2950 2s. 6d. that is, exclusive of the commission for the sale, which, according tc practice, the broker divided with the firm. This amount was paid over by the broker to the banking-house of Messrs. Marten and Co., who transacted business for Messrs. Marsh and Co. in the city, and is regularly noted in the day-book of the latter, by a clerk, by whom the entry was made at the dictation of the prisoner. But, in further management of the accounts in passing from the day-book to the private ledger, this sum appeared to have been carried to Mr. Fauntleroy's private account. The general produce was, however, afterwards posted, so as to keep up the accounts according to the original amount intrusted to the bank by the respective customers.

You will, gentlemen of the jury, naturally ask yourselves, as this occurred so far back as the year 1815, how it happened that during the successive years which have intervened, the dividends could have been so managed by the prisoner in his accounts, as to escape detection of his partners? The fact, however, was, that the prisoner had the entire management for the firm of their stock-market business. When the dividends became payable, it was the practice to make out a list for one of the partners to go to the Bank of England and receive payment. These lists were always prepared by the prisoner himself, and he always continued so to manage the entry in the books as to correspond with the nominal amount of stock intrusted to the firm by their customers. The list was, of course, so made out as to represent every thing entered in the manner the entries would have stood had the stock still existed, and sums were always carried on to the accounts, so as to keep up the delusion. It used to be the custom for Mr. Marsh to go to the bank and receive the dividends for the firm; he lived in the country, and only came to town to perform this part of the business: he was, therefore, as to all the other parts of the arrangement, entirely ignorant, and incapable of detecting the fraud. There is another fact which I think it my duty to explain to you; the note of the broker for the sale of this particular stock, which Mr. Fauntleroy ought, were the transaction a *bone fide* one, to have transmitted to the owner, was found amongst his other papers in the private tin box, which contained the extraordinary document I have already read to you.

These, gentlemen, are the whole of the facts which I undertake to establish by evidence before you, against the prisoner at the bar. I shall first prove the forgery, by producing the instrument, and proving, by the parties whose names are said to be affixed to it, that the signatures are not theirs. I shall next prove that the handwriting in the body of the instrument is that of the prisoner himself. I shall then, by the production of the extraordinary document to which I have alluded, prove that he recorded the act as his; and from the accounts it will be clear that they were so continued by him, with great activity and caution, as to evade the detection of the forgeries, which he alone could have committed.

J. Tyson sworn.—I have been a clerk seventeen years in the banking-house of Marsh, Sibbald, and Co. The prisoner, whose father was a partner at that time, entered the house in the same year, 1807. The firm then consisted of Mr. Marsh, who resided at Watford, Mr. S. J. Sibbald, Mr. Graham, who was a colonel in the army, Mr. Stracey, and Mr. Fauntleroy, the father of the prisoner. In 1807, Mr. Fauntleroy, the father of the prisoner, died (the prisoner here sighed deeply). I always considered that Mr. Fauntleroy was the most active partner in the establishment. He transacted most of the business himself. I remember the execution of a warrant of attorney by the prisoner in 1815, for the transfer of stock, which stood in the name of Frances Young, of Chichester, in the three per cent. consols. Miss Young was a

customer, and banked at Marsh, Stracey, and Co.'s (a document was put into the hands of the witness). This is a warrant of attorney, dated 21st of May, 1818, for the transfer of stock from the name of Miss Young to that of Mr. Flower, a stock-broker. It purports to be attested by me, and another clerk in Marsh and Co.'s bank. It is signed "J. Tyson;" and after the signature "J. Tyson," are the words "Clerk to Messrs. Marsh, Sibbald, and Co. bankers, Berners-street." The handwriting is not mine, it is that of Mr. Fauntleroy; I have no doubt of it, as I have been accustomed to see him write daily and hourly, for years. There is also the signature "H. Fauntleroy" to the power of attorney. It is the handwriting of the prisoner; it is signed "H. Fauntleroy, banker, Berners-street," as attorney for Miss Young; the prisoner then lived in Berners-street; the power of attorney is for the transfer of £5450 stock. There was no other James Tyson, a clerk, in the bank.

John Watson sworn.—I have been for twenty-five years a clerk in the banking-house of Marsh and Co. and up to the failure of the house; there is no other John Watson, a clerk, in the house; I see the signature "John Watson," and the words "Clerk to Marsh, Sibbald, and Co. bankers, Berners-street," upon the power of attorney, which is now put into my hands; it is the handwriting of Mr. Fauntleroy. I do not know Miss Young; my signature is put to this document as an attesting witness to the execution of the power of attorney. I did not see Miss Young sign the document, as my attestation purports. I see it is signed "Frances Young, 1815." The signature and date are in the prisoner's handwriting. I see the demand for the transfer of the stock: it is in Mr. Fauntleroy's handwriting. The signature to the demand, "H. Fauntleroy," is the handwriting of the prisoner. The words, "I demand the transfer of stock from Frances Young to —— Flower, Gent. stock-broker," &c. are the handwriting of Mr. Fauntleroy.

Robert Browning sworn.—I am a clerk in the Bank of England, in the three per cent. consols office, and have been for twenty years. I see this power of attorney now put into my hands, dated 1st of June, 1815. My name is upon the document as the subscribing witness. I remember the prisoner bringing the power of attorney to the bank, and demanding to act as attorney for Miss Young. I see the words "I demand to act," they are written by the prisoner, and his signature is affixed. I saw the prisoner write the words "H. Fauntleroy," to the demand, and my signature follows as a witness to the demand. I am sure I saw the prisoner sign it. He wrote the demand, and signed it in my presence in the sixth division in the consols office. The office is divided into different departments. I have the bank book in which the transfer of consols is entered. By referring to the day in question, the 1st of June, 1815, I found an entry of consols in the name of Miss Frances Young, of Chichester. On that day, Miss Young had the sum of £5450 three per cent. consolidated annuities standing in her name. I have seen the book in which transfers of stock are entered. I hold it in my hand.

Mr. Attorney-general.—Before you look at the transfer book, say if the amount of stock transferred, entered in that book, is signed by the person transferring it?

It is always signed by the person making the transfer.

The Attorney-general.—Now, sir, see if there is an entry in that book of the transfer of £5450 stock from Miss Young to —— Flower, stock-broker, on the 1st of June, 1815, and if it is signed, and by whom?

Witness.—I find an entry of £5450 stock, transferred from the name of Francis Young, to —— Flower, Gent. stock-broker. I find the name of Henry Fauntleroy, as attorney of Frances Young, spinster, of Chichester. The date "1st of June," and the signature, "H. Fauntleroy," are the proper handwriting of the prisoner, and were written by him in my presence. My name, as the attesting witness, is written in the margin. The name of the broker appears also to the transfer, thus, "Wm. Flower, Stock Exchange"

The counsel for the prosecution then called evidence to show that the bank had replaced the stock of which Miss Young had been defrauded by the prisoner's forging the warrant of attorney; it being absolutely necessary to show that she had no interest in the prisoner's conviction before she could be allowed to prove that her signature to the warrant of attorney was a forgery

Miss Frances Young sworn.—She stated—I resided in Chichester, in the year 1815, and Messrs. Marsh, Sibbald, and Co. of Berners-street, were my bankers. In the year 1815, I had the sum of £5450 stock, in the three per cent. consols; Messrs. Marsh and Co. received the dividends for me. I invested a further sum of £100 a short time since. I received from Marsh and Co. regularly the dividends of £5450 up to the period when I made the last purchase, and after that time I received a dividend upon £5550. I never authorized Marsh and Co. to sell any part of the stock for me; I never authorized the prisoner to make a transfer of it. [A paper was put into the hands of witness.] I see the signature "Frances Young," to this transfer; it is not my handwriting.

By the Judge.—I never gave authority to any one to transfer the stock.

By the Attorney-general.—I was not in London in May or June, 1815. I was in Chichester.

Mr. James Tyson, clerk of Marsh and Co.—It was usual for Mr. Marsh, the senior partner in the bank, to go to the Bank of England to receive the dividends. Mr. Marsh lived in the country, and usually came to London for that purpose. It was the practice for a list of the dividends to be made out, and for Mr. Marsh to take it to the bank. The list was usually made out by Mr. Fauntleroy; in fact, I believe, he always made out the list. The list contained the names of the parties to whom the dividends were due, and the sums they were entitled to, and which Mr. Marsh was to receive. [A list shown to the witness.] This is the list of the July dividend in consols, in 1824. It is endorsed by Mr. Fauntleroy, the prisoner at the bar, thus, "three per cent. consols, July, 1824, Marsh, Stracey, and Co.' I am positive the endorsement is the prisoner's handwriting. The list contains names, and sums opposite to them. The whole are written by Mr. Fauntleroy. The list is alphabetical. The red figures are in the handwriting of the bank clerk. In the list under the letter Y, is inserted the name "Frances Young," and the sum opposite the name is £5450. When Mr. Marsh received the dividends, he paid then to Mr. Fauntleroy, who kept an account.

Cross-examined.—This money is placed to the credit of Mr. Fauntleroy, in his private account. The sums are very large; to the amount of £50,000. I don't know whether the money found its way into the funds of the bank, as that rests with the partners themselves. I don't know whether they were drawn out on Mr. F.'s account; Marten and Co. were our city bankers; they received this money; Mr. Stracey would know whether this was applied to Fauntleroy's account or not; but the clerks know nothing of it. It was the custom to make entries to initials. We were merely ordered to make an entry of them in the ledger.

John Henry Spurling.—In 1815 I was clerk to Mr. Soloman, who was stock-broker to Marsh and Co. On the 1st of June, I sold out the sum of £5000 consols for Miss Young, of Chichester. It is entered in the book. The amount of the money produced by the sale was £2956 5s. Then deducting one per centage, there was left £2950 2s. 6d. The amount was paid on the 1st of June, with my draft, to the account of Marsh and Co. at the banking-house of Marten and Co. I delivered the note of the sale to Marsh and Co.

The note of sale was now put in.

Samuel Plank.—I am a police officer, of Marlborough-street office. I apprehended the prisoner the 10th of September, at his banking-house, in Berners-street. There was a desk in the room where the prisoner was, which

he locked after I went in. He knew I had come to apprehend him. The key with which he locked it, I took from his watch at Marlborough-street; I delivered it to Mr. Freshfield. I went with Mr. Freshfield afterwards to the banking-house, and searched the desk with Mr. Freshfield. There was a private drawer in the desk, and from it I took some more keys. There were papers there, and they were brought away by me. The prisoner was examined that day. The keys found in the desk were kept in my possession till after the examination. When I went, after the examination, to the bank with Mr. Freshfield, we found two boxes. "Fauntleroy" was on one of them. I tried them with the keys, and they opened them; after that I locked the boxes, and delivered the keys to Mr. Freshfield; the boxes were taken away by Mr. Freshfield in a coach.

Mr. Freshfield, the bank solicitor.—I went to the house of Marsh and Co. with the officer, the day the prisoner was apprehended; I made search there. I received a key from Plank the officer; it opened the private desk of the prisoner; in the desk were found some other keys. After the examination I returned to the banking-house, and in a room at the back of the partners' room, I found two boxes; one had the name of "Fauntleroy" upon it. There was another box by it. I desired the officer to try the box with the keys, that I might not take the box of any other person than the prisoner. He did so; and finding from the papers that it belonged to the prisoner, I took it home with me. In the course of the same night I went through the whole of one, and half of the other. One contained a number of deeds, probates of wills, letters of administration, and official documents. In the other, there were a great number of memorandums, and diaries; also, the sale note produced. He found also the paper I now hold (the paper alluded to by the attorney-general in his opening speech).

Mr. Justice Park.—Prisoner, the case on the part of the prosecution being now closed, and your counsel having examined the witnesses; they not being permitted to make a speech for you, you may, if you wish, say any thing you think proper to the jury or to me.

Mr. Fauntleroy then rose, and drawing a paper from his bosom, said, "My lord, I will trouble you with a few words." Then, wiping away a tear which forced itself down his pallid cheek, he proceeded, in a very low, and sometimes hardly audible voice, to the following effect:—

My Lords and Gentlemen of the Jury,—Overwhelmed as I am by the situation in which I am placed, and being uninformed in what manner I should answer the charges which have been alleged against me, I will endeavour to explain, so well as the poignancy of my feelings will enable me, the embarrassments of the banking-house in which I have been for many years the active and only responsible partner, and which have alone led to the present investigation; and although I am aware I cannot expect to free myself from the obloquy brought upon me by my anxiety to preserve the credit and respectability of the firm, still I trust that an impartial narrative of the occurrences will obtain for me the commiseration of the well-disposed part of the community.

Anticipating the court will extend its indulgence to me, I will respectfully submit such observations as I think will tend to remove from influenced minds those impressions, which with sorrow I say must have been made upon them by the cruel and illiberal manner which the public prints have falsely detailed a history of my life and conduct, hoping therefrom I may deserve your compassion, although I may be unable to justify my proceedings and secure my liberation by a verdict of the jury: yet they may be considered, in the mercy of the court and a discerning public, as some extenuation of the crimes with which I stand arraigned.

With this object it is necessary that I should first state, shortly, the circumstances under which I have been placed during my connexion with Marsh and Co.

My father established the banking-house in 1792, in conjunction with Mr. Marsh and other gentlemen. Some of the partners retired in 1794, about which time a loss of £20,000. was sustained. Here commenced the difficulties of the house. In 1796, Mr. Stracey and another gentleman came into the firm, with little or no augmentation of capital.

In 1800, I became a clerk in the house, and continued so six years, and although during that time I received no salary, the firm were so well satisfied with my attention and zeal for the interest and welfare of the establishment, that I was handsomely rewarded by them. In 1807 my father died; I then succeeded him; at this time I was only twenty-two years of age, and the whole weight of an extensive but needy banking establishment at once devolved upon me, and I found the concern deeply involved in advances to builders and others, which had rendered a system of discounting necessary, and which we were obliged to continue in consequence of the scarcity of money at that time, and the necessity of making further advances to those persons to secure the sums in which they stood indebted.

In this perplexed state the house continued until 1810, when its embarrassments were greatly increased, owing to the bankruptcies of Brickwood and others, which brought upon it a sudden demand for no less a sum than £170,000, the greater part being for the amonnt of bills which our house had accepted and discounted for these parties, since become bankrupts.

About 1814, 1815, and 1816, from the speculations with builders, brickmakers, &c. in which the house was engaged, it was called upon to provide funds to nearly £100,000, to avert the losses which would otherwise have visited it from those speculations.

In 1819, the most responsible of our partners died, and we were called upon to pay over the amount of his capital, although the substantial resources of the house were wholly inadequate to meet so large a demand.

During these numerous and trying difficulties the house was nearly without resources, and the whole burthen of management falling upon me, I was driven to a state of distraction, in which I could meet with no relief from my partners, and, almost broken-hearted, I sought rosources where I could, and so long as they were provided, and the credit of the house supported, no inquiries were made, either as to the manner in which they were procured, or as to the sources from whence they were derived.

In the midst of these calamities, not unknown to Mr. Stracey, he quitted England, and continued in France, on his own private business, for two years, leaving me to struggle as well as I could with difficulties almost insurmountable.

Having thus exposed all the necessities of the house, I declare that all the moneys temporarily raised by me were applied, not in one instance for my own separate purposes or expenses, but in every case they were immediately placed to the credit of the house in Berners-street, and applied to the payment of the pressing demands upon it. This fact does not rest on my assertion, as the transactions referred to are entered in the books now in the possession of the assignees, and to which I have had no access since my apprehension. These books, I understand, are now in court, and will confirm the truth of my statement; and to whatever account all the sums may be entered, whether to that of stock, of exchequer bills, or to my private account the whole went to the general funds of the banking-house.

I alone have been doomed to suffer the stigma of all the transactions; but, tortured as I have been, it now becomes an imperative duty to explain to you, gentlemen, and through you to the world at large, that the vile accusations heaped upon me, known to be utterly false by all those who are best acquainted with my private life and habits, have been so heaped upon me for the purpose of loading me with the whole of the obloquy of those transactions, from which, and from which alone, my partners were preserved from bankruptcy. I have been accused of crimes I never even contemplated, and of acts of

profligacy I never committed; and I appear at this bar with every prejudice against me, and almost prejudged. To suit the purposes of the persons to whom I allude, I have been represented as a man of prodigal extravagance; prodigal indeed I must have been, had I expended those large sums which will hereafter be proved to have gone exclusively to support the credit of a tottering firm, the miseries of which were greatly accelerated by the drafts of two of its members to the amount of nearly £100,000.

I maintained but two establishments, one at Brighton, where my mother and my sister resided in the season, the expenses of which to me, exclusive of my wine, were within £400 per annum. One at Lambeth, where my two children lived, from its very nature private and inexpensive, to which I resorted for retirement, after many a day passed in devising means to avert the embarrassments of the banking-house. The dwelling house in Berners-street belonged solely to my mother, with the exception of a library and a single bedroom. This was the extent of my expenditure, so far as domestic expenditure is concerned. I am next accused of being an habitual gambler, an accusation which, if true, might easily account for the diffusion of the property. I am, indeed, a member of two clubs, the Albion and the Stratford, but never in my life did I play in either, at cards or dice, or any game of chance; this is well known to the gentlemen of these clubs; and my private friends with whom I have more intimately associated, can equally assert my freedom from all habit or disposition to play. It has been as cruelly asserted that I fraudulently invested money in the funds to answer the payment of annuities, amounting to £2200, settled upon females. I never did make any such investment; neither at home nor abroad, in any funds whatever, have I any investment; nor is there one shilling secretly deposited by me in the hands of any human being. Equally ungenerous, and equally untrue it is, to charge me with having lent to loose and disorderly persons large sums which never have, and never will be repaid. I lent no sums, but to a very trifling amount, and those were advanced to valued friends. I can, therefore, at this solemn moment, declare most fervently, that I never had any advantage beyond that in which all my partners participated, in any of the transactions which are now questioned. They, indeed, have considered themselves as partners only in the profits, and I am to be burthened with the whole of the opprobrium that others may consider them as the victims of my extravagance. I make this statement, not with a view to criminate others, or to exculpate myself; but borne down as I am by calamity, I will not consent to be held out to the world as a cold-blooded and abandoned profligate, ruining all around me for the selfish gratification of vice and sensuality, and involving even my confiding partners in the general destruction.

Gentlemen, I have frailties and errors enough to account for. I have sufferings enough past, present, and in prospect; and if my life was all that was required of me, I might endure in silence, though I will not endure the odium on my memory of having sinned to pamper delinquencies to which I never was addicted. Thus much has been extorted from me by the fabrications which have been cruelly spread amongst the public, that very public from whom the arbiters of my fate were to be selected. Perhaps, however, I ought to thank the enemy who besieged the prison with his slanders—that he did so while my life was spared to refute them, and that he waited not until the grave to which he would hurry me, had closed at once on my answer and my forgiveness. There is one subject more connected with these charges to which I am compelled to advert, and I do so with great reluctance. It has added to the other charges made against me, lest the world should think there was any vice in which I was not an adept. I have been accused of acting treacherously towards the female who now bears my name, having refused to make reparation until threatened by her brother, and of having deserted her at a moment when she had the greatest claim on my protection. Delicacy forbids me entering into an explanation on this subject further than to declare

that the conduct I adopted on that occasion was uninfluenced by the interference of any individual, and arose, as I then considered, and do still consider, from a laudable and honourable feeling on my part; and the lady's brother, so far from coming forward at the time alluded to, was on service in the West Indies. Could all the circumstances be exposed, I feel convinced that every liberal-minded man would applaud my determination; and I feel satisfaction in stating, that the lady in question has always been, and still is, actuated by the best of feelings towards me.

I have now only to apologize to the court for having entered so much at length into the statement of my unfortunate case; and in conclusion, I have to express my perfect confidence, that it will receive every favourable consideration at your hands; and I fully rely that you, gentlemen of the jury, will give an impartial and merciful decision.—

The prisoner, having concluded his address, sat down, evidently exhausted by the effort, and overcome by his feelings. A glass of water was brought to him, of which he took a little; and while the witnesses to his character were examining, he leant his head on his hand, in which he still held his handkerchief in a manner to cover his face, as if unwilling to be seen by his former friends. While they were giving their evidence he often appeared to weep.

The following witnesses were called to the prisoner's character, and examined by Mr. Gurney.

Mr. John Wilson knew Mr. Fauntleroy about sixteen years, during the whole of which time he maintained an unspotted character; he always considered him a man of the strictest integrity.

Sir Charles Forbes had known Mr. Fauntleroy twelve years, and always considered him an honourable and obliging gentleman, and an upright man of business.

Mr. Gray knew him fifteen years, and always considered him deserving of the highest esteem and respect.

Mr. Bolt knew Mr. Fauntleroy twenty-seven years, and always esteemed him a kind, an honourable, and an upright man.

Mr. James Robinson knew him eleven years, during which time he maintained as high a character as man could possess.

Mr. Wand was acquainted with Mr. Fauntleroy eleven years; his character was most excellent.

Mr. Lindsay knew Mr. Fauntleroy ten or twelve years; he did not know a man who appeared to possess more kind or honourable feelings.

Mr. Anthony Browne was acquainted with him sixteen or seventeen years, and always entertained the highest opinion of his honour and integrity.

Mr. Wyatt had known Mr. Fauntleroy twelve years; he was a most honourable, kind-hearted, and benevolent man.

Mr. Montreal knew Mr. Fauntleroy twelve years; he was a most benevolent man, and had the highest character for integrity.

Mr. Montague was acquainted with Mr. Fauntleroy upwards of twelve years, and never knew a more kind-hearted and humane man. His character was most excellent.

Mr. Vernon was acquainted with him sixteen years; he always had the character, and appeared to be a very kind and a very honourable man.

Mr. Ross knew Mr. Fauntleroy fourteen years; he had the character of being strictly honourable and upright.

Mr. Church knew Mr. Fauntleroy twelve years, and had much dealing with him. He was always strictly honourable and upright in all his trans actions with witness, and had universally the character of the strictest integrity and honour.

Mr. Yatman was acquainted with him twelve years; he always possesseu a character of the highest excellence.

Mr. Boshnel was acquainted with Mr. Fauntleroy fifteen years, and always considered him a perfectly honest and honourable man.

Mr. Justice Park now commenced his charge to the jury. The prisoner, he said, was indicted for forging a power of attorney, for the transfer of stock belonging to Miss Frances Young; and for uttering such power of attorney knowing it to be forged. There were other counts in the indictment, charging the prisoner with an intent to defraud the Bank of England, and also a person of the name of Flower, to whom the transfer was made. The forgery they might put out of their consideration, as there was no evidence of its having been committed in London; and they, as a London jury, could not try a prisoner for any crime not committed in the city; but if they should think that the count which charged the prisoner with uttering the forged power of attorney at the Bank of England, which was in the city of London, knowing it to be forged, finding him guilty on that count was the same in its legal effect as if he were found guilty on all the counts in the indictment.

The attorney-general and the prisoner had both called on them to dismiss all reports from their minds; and he, Mr. Justice Park, had allowed the prisoner to proceed in the statement he had made in answer to those cruel charges, though that statement did not go at all to the point of the case to be decided, as the only question for their consideration was, whether the prisoner uttered the power of attorney given in evidence in the manner imputed to him? That question contained three points; the first was, was that instrument forged? the second, did the prisoner utter it? the third and most important, did the prisoner at the time of uttering it know it to be forged? If they were satisfied by the evidence that those three things were proved, then the prisoner's guilt was legally proved, and it would be their duty to find a verdict in conformity with that evidence. The jury had heard other indictments against the prisoner read, but they must put them out of consideration, as they were only to attend to the case on which they had heard evidence: but if they were satisfied, by the evidence they had heard, that the crime imputed to the prisoner had been proved, if he had the character of an angel, it would be their duty to find him guilty.

The jury then retired to deliberate on their verdict. During their absence, which lasted for twenty minutes, Mr. Fauntleroy resumed his seat, and appeared extremely affected. A sudden rush of the crowd at the door of the court announced the return of the jury. The prisoner stood up to hear his awful sentence. Whilst the clerk of the arraigns called over the names of the jury, and repeated the formal words of the law—"How say you: are you agreed upon your verdict? is the prisoner at the bar Guilty, or Not Guilty?" the most intense interest was manifested by every person present. The foreman replied, "*Guilty of uttering the forged instrument, knowing it to be forged.*"

A short conference then took place between the bench and the counsel for the prosecution, and referred to the propriety of proceeding with other indictments. Upon its conclusion,

Mr. Justice Park addressed the prisoner. "Henry Fauntleroy, the learned attorney-general does not feel it necessary, in the discharge of his public duty, to proceed further with the indictments which have been preferred against you. It is no part of my painful duty to pronounce the awful sentence of the law, which must follow the verdict which has just been recorded. That unpleasing task will devolve on the learned recorder, at the termination of the sessions; but it is a part of my duty, as a Christian magistrate, to implore you that you bethink yourself seriously of your latter end. According to the constitution of this country, the prerogative of mercy is vested in the crown. With that I have nothing to do. I do not say that in your unhappy case the extension of mercy is impossible; but I am afraid that, after the many serious acts which, under your own handwriting, have been proved against you, involving so many persons in ruin, you would only deceive yourself by indulging in any hope of mercy on this side of the grave. Let me then

beseech you to turn your heart to the contemplation of your awful situation, and whilst it is yet in your power, use all your exertions to make peace with your God."

On November 2d, Mr. Fauntleroy was brought up to receive his sentence, when the deputy clerk of the arraigns said, turning to the prisoner: "You, Henry Fauntleroy, stand convicted of uttering as true, a deed, well knowing it to be forged. What have you to say why you should not be sentenced to die, according to the law?"

Mr. Alley, counsel for the prisoner, then observed, that the prisoner had not been found guilty generally on the counts of the indictment, but simply on that which laid to his charge the uttering a forged power of attorney, knowing it to be forged. If the verdict had been a general one, he should not have troubled the court with the present argument, for there was an express law making the act of forgery a capital crime. Until the reign of George the Second, no forgery had been capital, owing most probably to the small circulation of paper up to that time, and it was then made capital to forge or counterfeit any power of attorney, to convey fraudulently any share or portion of stock. This then did not extend to the act of uttering, and yet this was a law made for the protection of the Bank of England. He considered this point so clear, that no warping or torturing of language could turn it from the interpretation he put upon it. Subsequently to this, by the 2d George II. it was made capital to forge or utter any bill, bond, note, will, testament, security, or deed; but here there was no mention made of a power of attorney, unless, indeed, it was to be argued, that this instrument was included in the word deed. If, however, this pretence was set up, he thought that he had it in his power to remove any such objection; this act originally extended to offences against individuals. It was afterwards enlarged so as to include all companies and corporations. This was how the law then stood, and he thought that it was never intended by those laws to include an offence of this kind; it was on this he should rest his argument, so that this unfortunate gentleman should not be called upon to suffer the sentence of death. By the 57th George III. it was enacted that it should be capital to forge a power of attorney to receive the wages of seamen, or to make use of such power with intent to defraud. This was an additional proof that the word deed in 2d of George II. did not apply to letters of attorney; for, if it had, this new act would have been superfluous; and it was a curious fact, that it was not till after those two acts of parliament that any such thing was known as the three per cents., in which this forgery had been committed, so that these acts could not have been meant to apply to them.

Mr. Justice Garrow observed, that a reference to dates would easily settle this matter.

Mr. Alley continued—If he was right on that point, it was quite clear that the legislature had provided no protection for this property. But to return to the word deed, which occurred in the 2d George II. he held, that for an instrument to come within the meaning of that word, it was necessary that it should be *per se* a security for money, such as a bill or a bond; but a power of attorney was, in fact, no such security; its only value was in reference to something else, and was in itself intrinsically good for nothing. The only securities protected by this law were money securities, which as paper had become in so eminent a degree the circulating medium, it was thought necessary specially to protect; but this was all that was contemplated, as might be gathered from the provision made for letters of attorney in the peculiar case of seamen's wages, in the 57th George III.; an act which was drawn up by the law officers of the crown, who would hardly have wasted both the time and money of the country, if they had thought that that species of instrument was already provided for.

Mr. Broderick said, the terms only mentioned the uttering, but doubtless that included the disposing. Our motive, therefore, is not that no judgment

can be pronounced, but that judgment of death cannot be passed; the only statute under which the prisoner is liable, is one which inflicts only the punishment of transportation, and to this point he wished to give all his weight of argument. The 2d George II. enacted, that if any person forged or caused to be forged any deed, or uttered or published as true any such forged deed, it should be a capital offence; by the 31st of George II. this was extended to corporations, in consequence of the case of Harrison. The only question, therefore, was, whether this power of attorney was a deed within the meaning of the act; and if he could show that the legislature itself did not consider it so, he trusted it would be a strong ground for convincing his lordship. By the 8th George I. the capital punishment is confined to the forging alone, and not to the uttering. This, therefore, certainly was not within the range of the indictment; the 2d of George II. extended the capital punishment to uttering, but neither of these acts use the term "letter of attorney;" the 57th of George III. makes the forging a letter of attorney for seamen's wages capital; but what would have been the use of an express act to make this capital, if all powers of attorney were included in the 2d George II. in the word *deed?* He now came to the only act under which the prisoner could be sentenced, viz. that of 37th of George III. c. 122, and this awarded transportation for seven years, if the names of the attesting witnesses were forged to a power of attorney. Here, then, they got the words power of attorney in an act of legislature; and he considered this as a tacit declaration that a power of attorney was not included in the former word *deed.*

Mr. Sergeant Bosanquet, in reply, said, it had been stated, that this prosecution was different to most others in the manner in which the indictment had been framed. He could only say in reply, that since he had had the honour to assist the bank in its prosecutions, the indictments had been framed in the same way as the one upon which the unfortunate prisoner had been convicted. In the very last instance of a conviction for forging a power of attorney, alluded to in the case of Mr. Waite of Bristol, the indictment was drawn up under the same act of parliament, and framed in the same way, except with this difference, that in that case there was no charge of forgery at all in the indictment: the different counts confined the charge solely to the uttering the instrument. The reason this was done was because the power of attorney had been forged in Bristol, and therefore there was no ground for charging him with the forgery in London. The case of the unfortunate Mr. Waite was precisely similar to the charge against the prisoner; and after a most able argument, the conviction was good, and Mr. Waite underwent the sentence of the law.

Mr. Law followed on the same side, and at considerable length, when Mr. Justice Garrow said, that the awful period of time had now arrived in which it was to be decided whether the sentence of the law should be passed on the unfortunate man at the bar. The case had already met, in the progress of his trial, with all the attention and all the patience of his learned brother, and it was now his duty to say, that of the propriety and legality of the sentence then passed he did not entertain the slightest doubt. He was now bound to say, that, for his own part, he did not entertain a doubt upon the subject: the record bore upon the face of it the offence clearly made out—that of uttering, knowing it to be forged, the signature of Frances Young. This was, undoubtedly, a violation of the statute enacted for the punishment of uttering a forged deed, knowing it to be forged.

The clerk of the arraigns then began the names of the other prisoners cast for death, when Mr. Fauntleroy interrupted him, by reading a speech from a written paper, in which he implored his lordship's interference for royal mercy.

The recorder then passed sentence of death on Mr. Fauntleroy, in the usual terms.

The Recorder.—If the prisoner that read a paper to the court is desirous that the petition should be presented to his majesty's council, I will take care that such is the case.

Several petitions were accordingly presented in behalf of the prisoner, among which was one from his wife; but these failing in their object, he was executed on October 30th.

ANNA SCHONLEBEN,

(GERMANY,) FOR POISONING.

In 1808, a widow, about fifty years old, resident at Pegnitz, and bearing the name of Anna Schonleben, was received as housekeeper into the family of the Justiz-Amptmann Glaser, who had for some time previous been living separate from his wife. Shortly after the commencement of her service, however, a partial reconciliation took place, in a great measure effected through the exertions of Schonleben, and the wife returned to her husband's house. But their reunion was of short duration, for in the course of four weeks after her return, she was seized with a sudden and violent illness, of which, in a day or two, she expired.

On this event Schonleben quitted the service of Glaser, and was received in the same capacity into that of the Justiz-Amptmann Grohmann, then unmarried. Though only thirty-eight years of age, he was in delicate health, and had suffered severely from the gout, so that Schonleben had an opportunity of showing, by the extreme care and attention which she bestowed upon his comforts, her qualifications for the office she had undertaken. Her cares, however, it seemed were unavailing; her master fell sick in spring, 1809, his disease being accompanied with violent internal pains of the stomach, dryness of the skin, vomiting, &c., and he died on the 8th May, after an illness of eleven days. Schonleben, who had attended him with unremitting attention during his illness, administering all his medicines with her own hand, appeared inconsolable for his loss,—and that of her situation.

The high character, however, which she had acquired for her prudence, care, and gentleness as a sick-nurse, immediately procured her another in the family of the Kammer-Amptmann Gebhard, whose wife was at that time on the point of being confined. This event took place on the 13th May, shortly after the entry of the new housekeeper, who made herself particularly useful, and mother and child were going on extremely well, when on the third day after the birth, the lady was seized with spasms, internal heat, violent thirst, vomiting, &c. In the extremity of her agony, she frequently exclaimed that they had given her poison. Seven days after her confinement she expired.

Gebhard, the widower, left without any one to take the management of his domestic affairs, thought that, in the mean time, he could not do better than retain in his service the housekeeper, who, during his wife's illness, had distinguished herself so much by the zeal and assiduity of her attentions to the invalid. Some of his friends attempted to dissuade him from retaining an inmate, who seemed by some fatality to bring death into every family with which she became connected; but Gebhard, who was not of a superstitious turn, laughed at their apprehensions, and Schonleben remained in his house, now invested with almost unlimited authority.

During her residence here, many circumstances occurred, which, though at the time they excited little attention, were subsequently recollected and satisfactorily established. These will be hereafter alluded to: meantime

we proceed to that which first directed suspicion against her. Gebhard had, at last, by the importunity of a friend, who (from what ground he did not explain) had advised him to dismiss his housekeeper, been prevailed on to take his advice, and had communicated as gently as possible his resolution to Schonleben herself. She received it without any observation, except an expression of surprise at the suddenness with which he had changed his mind, and the next day was fixed for her departure for Bayreuth. Meantime she bustled about as usual, arranged the rooms, and filled the salt-box in the kitchen, observing that it was the custom for those who went away to do so for their successors. On the morning of her departure, as a token of her good-will, she made coffee for the maids, supplying them with sugar from a paper of her own. The coach, which her master had been good-natured enough to procure for her, was already at the door. She took his child, now twenty weeks old, in her arms, gave it a biscuit soaked in milk, caressed it, and took her leave. Scarcely had she been gone half an hour, when both the child and the servants were seized with violent retching, which lasted for some hours, leaving them extremely weak and ill. Suspicion being now at last fairly awakened, Gebhard had the salt-box examined which Schonleben had so officiously filled. The salt was found strongly impregnated with arsenic. In the salt barrel also, from which it had been taken, thirty grains of arsenic were found, mixed with about three pounds of salt.

That the series of sudden deaths which had occurred in the families in which Schonleben had resided, was owing to poison, now occurred to every one as clear; and they almost wondered how so many circumstances could have passed before their eyes without awakening them to the truth. During her residence with Gebhard, it appeared that two visiters who had dined with her master, in August, 1809, were seized after dinner with the same symptoms of vomiting, convulsions, spasms, &c. which had affected the servants on the day of Schonleben's departure, and of which the more unfortunate mistress of the family had expired; that on one occasion she had given a glass of white wine to Rosenhauer, a servant who had called with a message, which had occasioned similar symptoms, so violent indeed as to oblige him for a day or two to confine himself to bed; that on another, she had taken a lad of nineteen, Johann Kraus, into the cellar, where she offered him a glass of brandy, which, after tasting and perceiving a white sediment within it, he declined; that one of the servants, Barbara Waldmann, with whom Schonleben had frequent quarrels, after drinking a cup of coffee, was seized with exactly the same symptoms as her companions: and what, perhaps, appeared the most extraordinary of all, that at a party given by her master on the 1st September, having occasion to send her to his cellar for some pitchers of beer, he himself, and all the guests that partook of it, five in number, were almost immediately afterwards seized with the usual spasms, sickness, &c. which seemed to accompany the use of those liquids whenever they were dispensed by Schonleben.

Although from the long period which had elapsed since the death of those individuals, whose fate there was reason to suppose had been so prematurely accelerated by this smooth-faced poisoner, there was no great probability that any light would be thrown upon these dark transactions by an inspection of the bodies, it was resolved on at all events to give the matter a trial. The result of this ghastly examination, however, was more decisive than could have been expected; all the bodies exhibited in a greater or less degree those appearances which modern researches into the effects of poisons have shown to be produced by the use of arsenic; and in one of them in particular, that of the wife of Glaser, the arsenic was still capable of being detected in substance. On the whole, the medical inspectors felt themselves warranted in concluding, that the death of at least two individuals out of the three had been occasioned by poison.

Meantime Schonleben had been living quietly at Bayreuth, seemingly

quite unconscious of the storm which was gathering around her. Her finished hypocrisy even led her, while on the road, to write a letter to her late master, reproaching him with his ingratitude in dismissing one who had been a protecting angel to his child; and in passing through Nurnberg, to take up her residence with the mother of her victim, the wife of Gebhard. On reaching Bayreuth she again wrote more than once to Gebhard; the object of her letters evidently being to induce him again to receive her back into his family. She made a similar attempt on her former master Glaser, but without success. While engaged in these negotiations the warrant arrived for her apprehension, and she was taken into custody on the 19th October On examining her person three packets were found in her pocket, two of them containing fly-powder, and the third arsenic.

For a long time she would confess nothing; evading with great ingenuity, or resisting with obstinacy every attempt to obtain from her any admission of her guilt. It was not till the 16th April, 1810, that her courage gave way, when she learned the result of the examination of the body of Glaser. Then at last, weeping and wringing her hands, she confessed that she had on two occasions administered poison to her. No sooner had this confession been uttered, than she fell to the ground "as if struck by lightning," says Feuerbach, and was removed in strong convulsions from the chamber.

We shall condense into a short connected statement the substance of the numerous examinations which this wretch subsequently underwent, and of the information acquired from other sources by which her statements were in many particulars modified, and in some points refuted. Born in Nurnberg in 1760, she had lost both her parents before she reached her fifth year. Her father had possessed some property, and till her nineteenth year she remained under the charge of her guardian, who was warmly attached to her, and bestowed much care on her education. At the age of nineteen she married, rather against her inclination, the notary Zwanziger, for such, not Schonleben, was her real name; the loneliness and dulness of her matrimonial life contrasted very disagreeably with the gayeties of her guardian's house; and in the absence of her husband, who divided his time between business and the bottle, she dispelled her ennui by sentimental novel reading, weeping over the sorrows of Werter, and the struggles of Pamela and Emilia Galotti. The property which fell to her on her coming of age was soon dissipated by her husband and herself in extravagant entertainments and an expensive establishment, and a few years saw them sunk in wretchedness, with a family to support, and without even the comfort of mutual cordiality or esteem; for the admirer of Pamela, whose sympathetic heart had bled for the Sorrows of Werter, now attempted to prop the falling establishment by making the best use she could of her personal attractions (which, hideous and repulsive as she appeared at the time of her trial, she described as having once been very considerable), while her husband, as mean and grovelling in adversity as he had been assuming and overbearing in prosperity, was a patient spectator of his own dishonour. Perhaps it was consoling to him, as it appeared to have been to his wife, that she "had the delicacy," as she styled it, "to confine her favours to the higher classes of society." At all events, shortly afterwards he died, leaving his widow to pursue her career of vice and deceit alone. During the time which intervened between the death of her husband, and that when she first entered the service of Glaser, her life had been one continued scene of licentiousness and hypocrisy. Devoid of principle from the first, mingling chiefly with others, who, though of respectable or exalted rank, were as destitute of it as herself; forced to pretend attachment where none was felt; to submit where she would willingly have ruled; sometimes laughed at or treated with ingratitude where she was really labouring to please; a wanderer on the earth for twenty years without a resting place or a sincere friend; she became at last an habitual hypocrite, to whom falsehood seemed to be actually more natural than truth. Rage and disappointment at

her fate, and a bitter hatred against mankind, seemed to have gradually been maturing in her heart; till at last all the better sympathies of her nature were poisoned, and nothing remained but the determination to better her condition at the expense of all those ties which humanity holds most sacred. When and how the idea of poison dawned on her,—whether suddenly, or by degrees,—her confessions did not explain; but there is every reason to believe that this tremendous agent had been employed by her previous to her appearance in Glaser's house. Determined as she was at all hazards to advance her own interests, poison seemed to furnish her at once with the talisman she was in search of; it punished her enemies, it removed those who stood in her way; its operations afforded her the means of rendering her good qualities conspicuous in her affected sympathy for the sufferer; nay, administered in smaller quantities by her experienced hand, it was equally effectual in preventing a second visit from a disagreeable guest, or annoying a fellow servant with whom she had a quarrel. By long acquaintance poison had become so familiar to her, that she seemed to look on it as a useful friend; something equally available for seriousness or jest; and to which she was indebted for many a trusty and secret service. When the arsenic which had been taken from her pocket was exhibited to her some months afterwards at Culmbach, she seemed to tremble with delight; her eyes glistened as she gazed upon it, as if she recognised a friend from whom she had long been separated. Of the crimes which she had perpetrated, too, she always spoke as of slight indiscretions, rendered almost necessary by circumstances,—so completely by repetition had murder itself lost its character of horror.

From the first moment she had entered the house of Glaser, the idea of obtaining an influence over his mind, so as to secure him as her husband, had occurred to her. That he was then married was immaterial: poison would be the speediest process of divorce. First, however, the victim must be brought within the range of her power; hence her anxiety to effect the reconciliation of the pair, and the return of the wife to her husband's house. The plan succeeded, and within a few weeks after her return, Zwanziger commenced her operations. Two successive doses were administered, of which the last was effectual. "While she was mixing it," she said, "she encouraged herself with the notion that she was preparing for herself a comfortable establishment in her old age." This prospect having been defeated by her dismissal from Glaser's service, she entered that of Grohmann. Here her common mode of revenging herself upon such of her fellow servants as she happened to dislike, was to mix fly-powder with the beer in the cellar, in the hope of creating illness, though not death; and of this beer it happened more than once that some of the visiters at Grohmann's table also partook. These, however, were mere preparations "to keep her hand in;" the victim for whom her serious poisons were reserved was her unfortunate master. Here also she had for some time indulged the hope of a matrimonial connexion; infirm and gouty as he was, she thought she would obtain such an ascendency over him as to induce him to descend to this alliance; when all at once her hopes were blasted by hearing of his intended marriage with another. For some time she tried by every means in her power to break off the connexion; but her arts proved ineffectual, and Grohmann, provoked by her pertinacity, had mentioned to a friend that he could no longer think of retaining her in his service. The wedding day was fixed; all hopes of preventing the marriage were at an end; and nothing now remained for her but revenge. In five days afterwards Grohmann fell a victim to poison.

From this service Zwanziger passed into that of Gebhard, whose wife soon shared the fate of Grohmann; for no other reason, according to her own account, than because that lady had treated her harshly, and occasionally found fault with her management of the house. Even this wretched apology was contradicted by the facts proved by the other inmates of the house. The

true motive, as in the preceding cases, was, that she had formed designs upon Gebhard similar to those which had failed in the case of Glaser, and that the unfortunate lady stood in the way. Her death was accomplished by poisoning two pitchers of beer from which Zwanziger from time to time supplied her with drink. Nay, even her husband was made the innocent instrument of his wife's death by administering the same liquid to the invalid. Even while confessing that she had thus poisoned the beer, she persisted in maintaining that she had no intention of destroying the unfortunate lady; if she could have foreseen that such a consequence would have followed, she would rather have died!

During the remaining period, from the death of Gebhard's wife to that of her quitting his service, she admitted having frequently administered poisoned beer, wine, coffee, and other liquors, to such guests as she disliked, or to her fellow servants, when any of them had the misfortune to fall under her displeasure. The poisoning of the salt-box she also admitted; but with that strange and inveterate hypocrisy which ran through all her confessions, she maintained that the arsenic in the salt barrel must have been put in by some other person.

The fate of such a wretch could not of course be doubtful; she was condemned to be beheaded, and listened to the sentence apparently without emotion. She told the judge that her death was a fortunate thing for others, for she felt that she could not have left off poisoning had she lived. On the scaffold she bowed courteously to the judge and assistants, walked calmly up to the block, and received the blow without shrinking.

JOHN DOEKE ROUVELETT,

FOR FORGERY, 1806.

John Dorke, alias Romney Rouvelett, was a notorious swindler, well known in Bath, where he passed for a West-Indian of considerable fortune and family. He was about forty years of age, had the appearance of a Creole, and lived with a woman named Elizabeth Barnet, who passed for his wife. Having been arrested for debt, he was occasionally visited by this woman in the Fleet prison, and was afterwards removed by habeas corpus into Somersetshire, on a charge of forgery. Conscious that Elizabeth Barnet was the only witness against him, by whose evidence he could be convicted of the forgery, as well as perjury (another case also pending, Rouvelett having falsely sworn a debt against Mr. Durant, of the York-hotel, Albemarle-street), he had her taken up for a supposed robbery, and charged her with stealing his purse in the Fleet prison, coutaining forty guineas, half a guinea, and a valuable diamond. This case of singular atrocity came on at the Old Bailey, July 5, 1806.

Rouvelett was brought up from Ilchester jail, ironed, to prosecute on his indictment. An application was made to put off the trial, on the affidavit of the prosecutor, which stated, that some material witnesses at Liverpool had not had sufficient notice to attend. The object of this attempt was to prevent the prisoner from appearing against him on his trial for forgery, as also to prevent her becoming a witness against him in the case of perjury already mentioned. The recorder detected the whole transaction, which he described as the most foul and audacious that ever was attempted. He then ordered the trial to proceed.

Rouvelett (who presumptuously called himself a gentleman) stated that the prisoner was with him on the 11th of June, 1805, when he drew half a

guinea from his purse, and gave it to a messenger; after which he put the purse, containing the property as stated in the indictment, into the pocket of a surtout coat, which was hanging up in the room, in which was the ring, worth £30. There were no other persons in the room but the prisoner and himself; and in twenty minutes after she was gone, he missed his property from the great coat pocket. He concluded that the money was safe, as the prisoner was gone to Durant's hotel, Albemarle-street, and he did not suppose her capable of robbing him. She, however, absconded, and he never saw her again until she was arrested at his suit, jointly with Durant, in an action of trover for £20,000 for deeds, mortgages, and bonds, bearing interest, for which bail was given. He had no opportunity of bringing her to justice for the alleged robbery, he being himself a prisoner.

On the cross-examination of the prosecutor, he said he was born at St. Martin's in the West Indies, and had been at most of the islands in that quarter; his uncle was a planter in the West Indies, and he lived on such means, whilst in England, as his family afforded him; he was brought up in Amsterdam, at the house of Mr. Hope, banker; after which he became a lieutenant in the British army. He knew Mr. Hope of Harley-street, Cavendish-square, and Mr. Hope knew him to be Mr. Rouvelett, of St. Martin's, for the two families had been closely connected for one hundred years. He had lived in England on remittances from his uncle in goods or bills, but he had no property of his own. Messrs. Stevens and Boulton used to pay witness his remittances at Liverpool, but he could not tell who paid them in London.

The recorder observed, that the witness should not be pressed too far in giving an account of himself, as he stood charged with forgery. On being asked if he, the prosecutor, had not said he would be revenged on the prisoner, as he was intimate with Durant, and charged her with felony, he answered that he did not recollect having said so; but the question being pressed, he partly acknowledged it. The purse, which was empty, witness acknowledged was found under his pillow, on the 12th of June, the day after the alleged robbery, by his chum, a man of the name of Cummings. The prisoner was with him in prison after the 12th of June, although he had said she had absconded. The recorder did not suffer the case to be farther proceeded in, and directed the jury to acquit the prisoner; observing that this was the most foul charge he had ever heard of. The disgust of the persons in court was manifested by hisses and groans, as Rouvelett retired, in such a manner as baffled the efforts of the officers of justice for some time to suppress.

The trial of this malicious offender, who was thus happily disappointed in his views, came on at Wells, August 12, 1806, before Baron Thompson, and excited considerable interest throughout the county of Somerset. He was indicted for having feloniously and knowingly forged a certain bill of exchange, dated Grenada, 10th of November, 1804, for £420 sterling, payable at nine months' sight, to the order of George Danley, Esq. and drawn by Willis and Co. on Messrs. Child and Co. in London, with the forged acceptance of Messrs. Child and Co. on the face thereof, with the intent to defraud Mary Simeon.

Mr. Philip George, the younger clerk to the mayor of Bath, stated, that the bill in question was delivered to him by the mayor of Bath, and that he had ever since kept the bill in his own custody.

Mrs. Mary Simeon, dealer in laces at Bath, was next called, and was proceeding to give her evidence, when Mr. Jekyl, counsel for the prisoner, submitted a legal objection to the court. He observed a difference between the bill itself, and the bill as set forth in the indictment. The words to which he alluded were, "Willis and C." in the bill, whereas in the indictment they were set forth "Willis and Co." After some discussion, Baron Thompson and the jury agreeing that there appeared no essential difference, as the letter *o* could be distinguished, the objection was overruled.

Mrs. Simeon having been then permitted to proceed, stated, that in April,

1805, she lived at Bath, the prisoner at the bar came to her house, on or about the 16th of the preceding March; having looked at several articles in which she dealt, he bought a fan, paid for it, and said he should bring his wife with him in the afternoon. He accordingly did so, and brought Elizabeth Barnet as his wife, Mrs. Romney; he asked whether Mrs. Simeon had a Brussels veil of 150 guineas value. The witness answered she had not; he then bought two yards of lace, at four guineas a yard, and went away. This happened on a Saturday. The Monday following, he came again, accompanied by his wife, looked at a lace cloak, at veils worth five-and-twenty guineas, and other goods, but did not buy any. In the course of the week he called again, and proposed to the witness to purchase a quantity of goods, if she would take a bill of a long date, accepted by Messrs. Child and Co. bankers, in London. Witness answered, she had no objection to take a bill accepted by such a house. He returned in two or three days, and purchased articles to the value of about £140, which, with other goods afterwards bought, and with money advanced by her, made the prisoner her debtor to the amount of £299. He bought all the articles himself, unaccompanied by his wife. In the month of April, between the 20th and the 24th, the prisoner proposed paying for the different articles, and he brought his wife to the house; when a meeting took place between them and the witness, and her brother, Mr. Du Hamel. He said, "I am going to London, and I should like to settle with you: this is the bill I proposed to you to take; it is accepted by Child and Co. bankers, in London;" and, turning over the bill, he added, "the endorser is as good as the acceptors." The bill was here produced, and proved by Mrs. Simeon to be the same which the prisoner gave her in 1805. The witness then took the bill, and her brother, Mr. Du Hamel, paid to him for her £35, which, with the articles previously bought, made the whole of the prisoner's debt to her £299. He wrote before her on the bill the name of John Romney, as his name. He afterwards went to London by the mail. She sent the bill next day to London. The conversation which passed between her and the prisoner, in the presence of her brother and Elizabeth Barnet, was entirely in the French language. He left his wife at her house, where she slept.

While he was absent, the witness received intelligence from London that the bill was a forgery, and she instantly wrote a letter to the prisoner informing him of it. He came to Bath, in consequence of the letter, late on Sunday night, and a meeting took place then at her house between him, and his wife, herself, and her brother, and her solicitor, Mr. Luke Evill, of Bath.

The conversation then passed in English. Several questions were put to the prisoner by herself and by Mr. Evill. Mr. Evill asked him whether he had any business with W. A. Bailey, the endorser, which induced him to take the bill. He said Mr. Bailey had sold some sugar for him. She asked him if Bailey lived in London; he replied, at some inn or coffee-house, the name of which he did not recollect. He was then asked in what island or islands Mr. Bailey's property was situated; he mentioned two or three islands in the West Indies, but he did not know in which of them Mr. Bailey was at that time. The prisoner then inquired where the bill was; and being informed by the witness that it was in London, he said she must write to get it sent back. She, however, declared that such an application would be unavailing, and the prisoner pressed her to go to London herself! She refused to go alone, and he entreated Mr. Evill to accompany her, saying, that he would give Mr. Evill £20 to defray the expenses of the journey, which he accordingly did. She set out at ten o'clock that night, accompanied by Mr. Evill, and obtained the bill from Messrs. Sloper and Allen, in whose custody it was, by paying three hundred guineas, which was all the money she then had at her bankers. She brought the bill back to Bath, having stopped but one day in London; but the prisoner was not at Bath when she returned. He had left some property at her house with his wife, who had removed from Sidney house with his clothes, &c. The bill remained after this in her custody

about a twelvemonth, and was given up to Mr. Evill by her brother. Mr. Dorant paid the whole of the debt due by the prisoner, on the 6th of May, 1805; a few days after the prisoner finally left Bath.

Upon the cross-examination of Mrs. Simeon, it appeared that she considered the prisoner and Elizabeth Barnet as man and wife. It was not until May, 1806, that she appeared before the mayor of Bath against the prisoner, whom she knew to have been in the Fleet prison.

Mr. Whelan deposed, that he was a clerk in the house of Messrs. Child and Co. The house had no correspondenst whatever at Grenada by the name of Willis and Co. and the acceptance which appeared on the face of the bill, was not the acceptance of Messrs. Child and Co.

Mr. Luke Evill, solicitor for the prosecution, stated, that he had sent the bill from Bath to his agent in London, for the purpose of its being delivered to Mr. Dorant.

Elizabeth Barnet, the next witness, said that she became acquainted with the prisoner in the month of September, 1804, when at Liverpool. About a fortnight after she saw him, she began to live with him, and continued till the 16th of June, 1805, during all which period she passed under the name of Mrs. Romney. She left Liverpool in the month of January, 1805, and came to London with the prisoner. They then took lodgings at Mr. Dorant's hotel, in Albemarle-street. The account he gave of himself to her was, that he was a West India planter, and that he had estates in Martinique and St. Kitt's. They remained between two and three months at Mr. Dorant's hotel, during which time they were not visited by anybody except a Mr. Hope, whom she remembered seeing with the prisoner. This Mr. Hope was not represented to her as being from Holland. She accompanied Mr. Romney to Bath, and on their arrival there they lodged at the White Hart inn, for about a fortnight, previous to their lodging at Madame Simeon's.

Soon after their arrival at the White Hart, she went with the prisoner to Madame Simeon's to look at some laces and a black cloak. None of these articles, however, were purchased at that time by the prisoner, they being afterwards bought when she was not present. She heard the prisoner state to Madame Simeon, that he would give her a bill of exchange, accepted by Child and Co. of London. She did not then see any bill in his possession, but saw him writing once three days afterwards, when he sent the witness for some red ink. She brought it to him, when he was still writing on the same piece of paper, and he soon afterwards wrote thereon with the red ink, and put it up into his pocket-book without saying any thing. The next day he told her she must go and walk with him to Madame Simeon's, as he was going to pay her for some articles he had bought, which, the witness had by that time got sent home to her. She accordingly accompanied him to Madame Simeon's shop, where she saw that lady, and her brother Mr. Du Hamel. A conversation then took place betwixt them, which being entirely in French, she did not understand. She, however, saw a paper given by the prisoner to Madame Simeon, which he took out of his pocket-book. This was the same paper which she had formerly seen him writing. A long conversation ensued after the bill was put down, and she then saw Romney put his name to it. The bill in question was here shown to the witness, and she distinctly identified it as being the same one she had formerly seen the prisoner write upon with red ink, and afterwards endorse with his name.

Two or three days afterwards the prisoner left Bath for London, and the witness remained at Madame Simeon's. He returned on the Sunday night following, and remained at Madame Simeon's till next day. She observed that he was then very much disturbed, and she inquired the reason. The prisoner answered by saying, he must be hanged. He asked her to fetch him his writing desk, which she did. He then took out a large parcel of papers, and burnt them. She had no opportunity of seeing what those papers were. She asked him, were the papers any harm? He said, yes, and that there was a paper which must not be seen. He further desired her to go to such

and such a trunk, and there she would find a plate, which he wished her to take the first opportunity of throwing into the river. This plate she found without any thing with it, and she put it into her own trunk amongst her wearing apparel.

He wrote her a letter afterwards from Chippenham, requesting her to remember the river. (This letter not being produced, no interrogations were put concerning it.) She had not an opportunity of throwing this plate into the river, as she never went out but under Madame Simeon's protection. She never lived with the prisoner since that day (June 6, 1805). She, however, remembered visiting him in the Fleet prison.

She was soon afterwards arrested at Bath, at the prisoner's instance, for the sum of £20,320, and carried to Winchester jail, and afterwards removed to the King's Bench. She saw the prisoner on this occasion, and again at the Old Bailey, when he was examined as a witness against her on her trial.

He then charged her with having robbed him on the 11th of June, 1805, of forty guineas and a diamond ring, when he was in the Fleet prison.

This charge was totally without foundation, as was also the alleged debt of £20,320. She never had any transaction in her life to which such a charge could refer. She heard him also give his evidence at Westminster Hall. What she related concerning the bill in question, she most solemnly declared was the truth. On the interrogatories of Mr. Baron Thompson, the learned judge, she further added, that she could read writing pretty well: when she brought the red ink to the prisoner, she remembered asking him what he had written, and he said he was drawing on Child and Co. She then observed to him that what he had written with the red ink looked very handsome: this made her perfectly certain as to the bill produced on this trial, being the identical bill she had seen the prisoner writing. Mr. Romney at that time thought she could not read writing; he was then teaching her to write his name as he did, and she made considerable progress in imitating his hand. The bill upon which he wrote across with red ink was printed (meaning engraved) exactly as the one now produced. The next day, when she saw the bill given by the prisoner to Madame Simeon, she particularly remarked the date upon it being the same as that which she had formerly seen.

The prisoner was called on for his defence, and, apparently with considerable confidence and firmness, addressed the court, observing that the circumstances attending the bill for which he stood charged, he could very well explain; about the month of June, 1803, a quantity of coffee, rum, and sugar, the produce of his estates in the West Indies, were sold by his agent, a Mr. M'Claurin, to a gentleman of the name of William Anthony Bailey, for which he (Mr. Bailey) gave a bill of exchange, drawn by the house of Calvert and Simpson, of St. Christopher's in the West Indies, upon the house of Bond and Proctor, at Lancaster, at six months' date, for £218 16*s*. This bill he (the prisoner) consented to take as payment of the produce sold; and coming to England upon business, he brought it with him. On being presented to the house of Bond and Proctor, acceptance was refused, and it was therefore noted, and returned to his agent in the West Indies in the year 1804, who, meeting with Mr. Bailey at St. Bartholomew's, received in lieu of the said bill a bond for £300, to answer the damage arising from the expense of protesting, &c. as well as the original sum. This bond was transmitted to him by his agent, who advised him, at the same time, that Mr. Bailey would be in England in the end of September, 1804, and that the transaction could be settled with himself.

On Mr. Bailey's arrival in London, January, 1805, he (Romney) received a letter from him, addressed to him when at Liverpool, informing him of his readiness to settle the business. He (the prisoner) accordingly waited on Mr. Bailey at his lodgings, Craven-street, Strand, when he offered him some other bills of exchange, drawn and accepted by other houses in England, which he (the prisoner) did not object to, provided he knew the acceptors. Several bills were then produced, and among others that one in question for

£420, which he consented to take from him, and pay him the difference, amounting to £139 7*s*. The bill was then endorsed by Mr. Bailey to him, on his assurance that it was a good and valid draft on Messrs. Child and Co. It having then about seven or eight months to run, it became in a manner useless to him, as he could not get it discounted. Happening to be at Bath, he offered it to Mrs. Simeon, she having no objection to take it in payment of an account run up to £130 by the young woman who had accompanied him there. Mrs. Simeon agreed to account to him for the proceeds. Having occasion to go to London upon business, Mrs. Simeon offered him the use of an apartment for his trunks, &c., which he gladly accepted, and went off, leaving the young woman under the care of Mrs. Simeon. He was then lodging at Sidney-house; and as he did not think it safe to leave his effects at a public hotel, he removed them to Mrs. Simeon's house in the Grove, Bath, in his own carriage, and by his own servants. As he could not get a large Bank of England note for £100 changed into small notes, he applied to Mrs. Simeon, who accommodated him with the loan of £30 in small Bank of England notes, and at the same time he endorsed the bill for £420 to that lady, in the presence of her brother, who offered him more money in country bank-notes, which he refused, as he only wanted sufficient to pay the expenses of his journey to London. After leaving his address with Mrs. Simeon, he was accompanied by her brother to the mail coach. The address he gave was, Dorant's Hotel, or at Harman and Co.'s, Old Jewry.

After being a few hours in town, he was arrested at the suit of his jeweller, Mr. Davis, of Sackville-street, for a sum of nearly £700, which he had refused to pay, on account of the greater part of the charge being for diamonds, sent to him at Bath against his positive orders. Mr. Dorant, the hotel keeper, offered, unsolicited, to become his bail in the action; so that he was released from the lock-up-house, and went to Dorant's, where he found a letter from Mrs. Simeon, apprizing him of the bill being a forgery, and requiring his return to Bath, or to advise her what she was to do in the business. He was then extremely ill of a fever, created by the agitation of having been arrested; but notwithstanding his situation, he immediately set off to Bath, after writing her an answer by the mail two or three hours subsequent to the receipt of her letter.

On seeing Mrs. Simeon and her brother, the forgery became the subject of discussion. He avowed that he was then ready to reclaim the endorsement, and he tendered back to Mrs. Simeon the £30 or £35 which he had borrowed of her. She appeared to expect that he would lend her about £430, which he refused, as he had not so much money about him. He told her solicitor, who was present, that he was perfectly ready to account for the bill having come into his possession; and, therefore, that he had little to apprehend from any criminal prosecution by Messrs. Child and Co. He referred Mrs. Simeon and her brother to Mr. Hope, of Harley-street, and to Messrs. Harman and Co., of the Old Jewry, for his character, he being personally known to them. He had further recommended to Mrs. Simeon and her solicitor to make the necessary inquiries respecting the bill; and, therefore, wished them to go to London, and had readily paid their expenses.

He also observed, as a proof of his innocence, that he might, when in the rules of the Fleet, have made his escape, had he been conscious of any guilt; and concluded his defence by a long detail of circumstances, for the purpose of showing that the prosecution was founded in malice.

One immaterial witness was called on the part of the prisoner.

Baron Thompson summed up in a very able manner, and recapitulated with great minuteness the whole of the evidence. The jury, having consulted for a few minutes, returned a verdict of—*Guilty of forging the acceptance, and of uttering it, knowing it to be forged.*

The trial lasted nearly twelve hours, and the court was crowded to excess. Rouvelett was executed at Ilchester, pursuant to his sentence, September 3, 1806. But he asserted his innocence to the last moment.

JOHN HOLLOWAY AND OWEN HAGGERTY,

FOR THE MURDER OF JOHN COLE STEELE, ON HOUNSLOW-HEATH, FEBRUARY 22, 1807.

Mr. Steele was proprietor of a lavender-water warehouse, in Catharine-street, Strand; and on the day preceding his murder, November 5, he went to Bedfont, where he had a plantation of lavender; but not returning to his house in town according to his usual custom, his friends became anxious for his safety. A strict search was set on foot, and, after exploring different parts of Hounslow-heath, he was found buried under a bush; part of his forehead being entirely cut away, and his head wounded in many places, as was conjectured, with a bayonet. It was also discovered that, on his return from Bedfont, he could not procure any kind of carriage, and consequently was obliged to proceed to town on foot. His boots and hat were taken away; his pockets were cut entirely off; and, from the circumstance of a military hat being found at the place, no doubt was entertained that he was murdered by some soldiers.

Several persons were taken up on suspicion of being the perpetrators, and among them were two labourers, who were heard quarrelling at Bristol, and accusing each other of shocking crimes; but it appearing that they were both innocent of this charge, a collection was made for them in the office. Sir R. Ford ordered them three guineas, and a pass to Liverpool, indicative of their innocence. Still no conclusive evidence or fact could be brought home, so as to warrant the detention of any person for the crime, and the public had to regret that the offenders remained undiscovered.

The following circumstance, about four years afterwards, led to the apprehension of John Holloway and Owen Haggerty. A man named Benjamin Hanfield, who had been convicted at the Old Bailey of grand larceny, was sentenced to seven years' transportation. He was conveyed on board a hulk at Woolwich, to await his departure for New South Wales; but having been taken with a severe illness, and tortured in his mind by the recollection of the murder, about which he constantly raved, he said he wished to make a discovery before he died. A message was immediately despatched to the police-magistrates at Bow-street, to communicate the circumstance, and an officer was sent to bring him before them. When he was brought on shore, he was obliged to remain several days, his illness not permitting his immediate removal. On his arrival in town, the magistrates sent him, in custody of an officer, to Hounslow-heath. He there pointed out the fatal spot where the murder was perpetrated, and related all the circumstances which he alleged to have attended it; and as his evidence implicated Haggerty and Holloway, measures were taken to apprehend them. Several private examinations of all the parties took place. Hanfield was admitted king's evidence, and the public once more cherished a hope that the murderers would meet the punishment they deserved.

The indictment having been read, and the prisoners having pleaded not guilty, Mr. Gurney, as counsel for the prosecution, opened the case. He stated to the jury, the charge upon which the prisoners stood at the bar. He said that, doubtless, the recollection of the circumstances of this melancholy transaction was fresh in their memory; he only mentioned this, that before they went into the box, they would divest their minds from any feelings arising from the nature of the crime. He then stated the circumstances of the deceased himself, before he entered into a detail of the evidence. Mr. Steele, he said, had left his house in town on Friday, the 5th of November, 1802, giving his family to understand that he should return next day. He slept at Feltham that night; and left his house at Feltham on Saturday evening

about seven o'clock, dressed in a drab-coloured great coat, boots, and a hat; he did not return to town that night, nor on Sunday. This caused alarm, and his brother-in-law went to Feltham, and found that he left his house on Saturday. A number of persons were despatched to look for him in different directions. After a search of some time in various parts of Hounslow-heath, in a ditch, situated in a clump of trees, at the distance of about five or six hundred yards from the barracks at Feltham, the body was found, with the face covered with blood; a violent blow seemed to have been inflicted on the back part of the head, with a fracture on the forehead, and a leathern strap tied very tight round the neck; and by the side of the body were found a large bludgeon, a pair of old shoes, and an old hat trimmed with worsted binding; at some distance, on the other side of the road, were discovered several marks of blood. The body seemed to have been dragged some distance. Diligent search was made, but the perpetrators were not discovered. Towards the close of the year 1806, information was received by Mr. Nares, that a person of the name of Hanfield, who was convicted in this court of stealing last sessions, had, while in confinement, dropped some expressions indicating something relative to this event. Application was made to the secretary of state to procure his majesty's pardon for him, he being then under the sentence of transportation, and not capable of being received as a witness in the trial of his accomplices. His majesty was accordingly graciously pleased to grant him a full pardon, and a proper officer was sent to conduct him from the hulks at Portsmouth; whence he was conveyed to town, and brought before the magistrates at Worship-street.

Benjamin Hanfield, the accomplice, was examined, and deposed nearly as follows:—

I have known Haggerty eight or nine years, and Holloway six or seven. We were accustomed to meet at the Black Horse, and Turk's Head, public-houses, in Dyot-street. I was in their company in the month of November, 1802. Holloway, just before the murder, called me out from the Turk's Head, and asked me if I had any objection to be in a good thing? I replied, I had not. He said, it was a "*No Toby*," meaning a foot-pad robbery. I asked when and where. He said he would let me know. We parted, and two days after we met again, and Saturday, the 6th of November, was appointed. I asked who was to go with us? He replied that Haggerty had agreed to make one. We all three met on the Saturday at the Black Horse, when Holloway said, our business is to "*sarve*" a gentleman on Hounslow-heath, who, I understand, travels that road with property. We then drank for three or four hours, and about the middle of the day we set off for Hounslow. We stopped at the Bell public-house, and took some porter. We proceeded from thence upon the road towards Bedfont, and expressed our hope that we should get a good booty. We stopped near the eleventh mile-stone, and secreted ourselves in a clump of trees. While there, the moon got up, and Holloway said we had come too soon. After loitering about a considerable time, Holloway said he heard a footstep, and we proceeded towards Bedfont. We presently saw a man coming towards us, and, on approaching him, we ordered him to stop, which he immediately did. Holloway went round him, and told him to deliver. He said we should have his money, and hoped we would not ill-use him. The deceased put his hand in his pocket, and gave Haggerty his money. I demanded his pocket-book. He replied that he had none. Holloway insisted that he had a book, and if he did not deliver it, he would knock him down. I then laid hold of his legs. Holloway stood at his head, and swore if he cried out he would knock out his brains. The deceased again said, he hoped we would not ill-use him. Haggerty proceeded to search him, when the deceased made some resistance, and struggled so much that we got across the road. He cried out severely, and as a carriage was coming up, Holloway said, "Take care, I'll silence the b——r," and immediately struck him several violent blows on the head

and body. The deceased heaved a heavy groan, and stretched himself out lifeless. I felt alarmed, and said, "John, you have killed the man:" Holloway replied, that it was a lie, for he was only stunned. I said I would stay no longer, and immediately set off towards London, leaving Holloway and Haggerty with the body. I came to Hounslow, and stopped at the end of the town nearly an hour. Holloway and Haggerty then came up, and said they had done the trick, and, as a token, put the deceased's hat into my hand. The hat Holloway went down in was like a soldier's hat. I told Holloway it was a cruel piece of business, and that I was sorry I had any hand in it. We all turned down a lane, and returned to London. As we came along, I asked Holloway if he had got the pocket-book. He replied it was no matter, for as I had refused to share the danger, I should not share the booty. We came to the Black Horse in Dyot-street, had half a pint of gin, and parted. Haggerty went down in shoes, but I don't know if he came back in them. The next day I observed Holloway had a hat upon his head, which was too small for him. I asked him if it was the same he got the preceding night. He said it was. We met again on the Monday, when I told Holloway that he acted imprudently in wearing the hat, as it might lead to a discovery. He put the hat into my hand, and I observed the name of Steele in it. I repeated my fears. At night Holloway brought the hat in a handkerchief, and we went to Westminster Bridge, filled the hat with stones, and, having tied the lining over it, threw it into the Thames.

The witness, being cross-examined, said, he had made no other minutes of the transactions he had been detailing, than what his conscience took cognizance of. It was accident that led to its disclosure. He was talking with other prisoners in Newgate of particular robberies that had taken place; and the Hounslow robbery and murder being stated amongst others, he inadvertently said, that there were only three persons who knew of that transaction. The remark was circulated and much noticed, and a rumour ran through the prison that he was about to turn "*nose;*" and he was obliged to hold his tongue, lest he should be ill-used. When at Portsmouth, on board the hulks, the compunctions of conscience came upon him, and he was obliged to dissipate his thoughts by drinking, to prevent him divulging all he knew. At last he was questioned by Sir John Carter; and at length an officer arrived from London, and he made a full confession. He admitted that he had led a vicious life, that he had been concerned in several robberies, and had entered and deserted from several regiments. He had served in the East and West London militias, had enlisted in the 9th and 14th light dragoons, and had been in the army of reserve. He added, that he was ashamed and sorry at what he had been, and would endeavour to mend his life in future.

John Vickery stated, that he was an officer belonging to Worship-street, and that, in consequence of information received by John Nares, Esq. the superintendant of the office in Worship-street, he had been sent to Portsmouth to bring up Hanfield, who was then confined on board the hulks, waiting to be transported with others, pursuant to his sentence. He was immediately delivered into his custody by the captain of the hulks, and they returned to London. As they passed across the heath of Hounslow, on the top of the coach, Hanfield pointed to a spot near a clump of trees, just at the eleven mile-stone, which he said was the place where the murder had been committed; but they had then no further conversation on the subject, as they were surrounded by people on the top of the coach. Hanfield, on his arrival in town, underwent an examination; in consequence of which he and the witness went together to Hounslow. They stopped at the Bell Inn, whence they proceeded to the heath; when Hanfield again pointed out the place where the crime was perpetrated, which the witness thought exactly the same as that pointed out by the former witnesses, detailing the circumstances of the murder previous to his escape from his companions, in almost

the same words as he had described them to the court. The witness and he returned to town. Soon after, the witness apprehended Holloway at Brentford, during the late election, and brought him to town. When he was examined before the presiding magistrate of Worship-street office, he declared he was totally innocent; but added, "if they would let him go, he would down on his knees to both the magistrate and the witness." The prisoner Holloway was remanded for further examination.

The witness went down to Deal, where he apprehended the prisoner Haggerty, on board the Shannon frigate, as a marine. When the witness apprehended him, he was in a very bad state of health, so much so, that he was obliged to be left behind, not being able to bear the fatigue of removal. The witness took an opportunity of asking him, in the presence of his captain, where he had been about three years ago? The prisoner answered, he was then employed in London as a day-labourer. The witness then asked him, where he had been that time four years? The prisoner directly turned pale, and would have fainted away, had not water been administered to him. Soon after, his health was so far restored as to permit his being removed to town, when he and the other prisoner underwent several examinations.

T. Croker, a Bow-street officer, recollected seeing, about four years ago, Haggerty and Hanfield together, near the Seven Dials, and in the Turk's Head. In this he was corroborated by the statement of one Limerick, another officer.

J. M'Donald, keeper of the Black Horse, Dyot-street, knew both the prisoners and the prosecutor Hanfield; had frequently seen Hanfield and Haggerty in the same box in his tap-room.

William Beale, keeper of the Turk's Head, said, he had seen them also at the same time in his tap-room, but was not certain of their being comrades.

John Peterson had been a pot-boy at the Turk's Head, and had frequently drawn beer for the prisoners; but could not say they were on terms of intimacy together.

John Sawyer lived, in 1802, at Hounslow, at the Bell, where he saw the two prisoners frequently; but could not be certain of seeing them in company together.

John Nares, Esq. the magistrate, said, that the prisoners were examined by him apart, when Hanfield was produced in evidence against them. He then read from a paper the examination of Haggerty, in which he denied knowing any thing of either Hanfield or Holloway, or being at Turk's Head or Black Horse porter-houses. Haggerty acknowledged he had been in confinement in July, 1802, in Tothill-fields. After this liberation, he said, he worked for some time with Mr. Smith, of Castle-street, as a plasterer; that his working-dress was usually a green velveteen jacket and small clothes. Being confronted afterwards with Mr. Smith, who denied his having ever been employed by him, he said—"That since they had bothered him so about it, he would give them no information on the subject." The same paper stated, that Holloway had acknowledged he knew Hanfield and Haggerty; but had never drank in their company; had never been at Hounslow in his life. He alleged he had worked for a Mr. Rose, and others, in November, 1802, which, on application, was found to be inaccurate, as he had not worked for them till March, 1803.

James Bishop, a police-officer, stated, that in the rear of the police-office in Worship-street are some strong rooms, for the safe keeping of prisoners pending their successive examinations. In two of these rooms, adjacent to each other, and separated by a strong partition, the prisoners were separately confined, and immediately behind these rooms is a privy. In this privy he took post regularly, after each successive day's examination; and, as the privy went behind both rooms, he could distinctly overhear the conversation of the prisoners, as they spoke pretty audible to each other from either side of the partition. Of this conversation he took notes, which were afterwards

copied out fairly, and proved before the magistrates; which he, on this occasion, read as his evidence in court.

These conversations extended to a very considerable length; but the material points were few. They showed, however, from the words of the prisoners' own conversation, that all they had said before the magistrates, in the denial of any acquaintance with each other or with Hanfield, was totally false, and a mere stratagem to baffle the testimony of the latter, who they hoped had secured his own execution by confessing his guilt, without being able to prove theirs; for they were confident the magistrates would not believe his testimony; and that there was no other witness to prove any clue to the fact, or that saw them together near Hounslow, where, from the whole connected tenor of their conversation, it was clear they had been on the night of the murder. But one strong point seemed to remove every doubt: Haggerty asked Holloway, after one of the latter examinations, "Where did Hanfield say *we had the gin* that night, after we came to town?" To which Holloway answered, "At the Black Horse, in Dyot-street." Haggerty then replied, "It must be at the Black-Horse *we had the gin*, sure enough."

John Smith, a coachman to the Gosport coach, in the month of November, 1802, near eight o'clock in the evening of the above-mentioned day, heard as he passed across Hounslow-heath, on the right-hand side of the road, near the eleven mile-stone, two groans, the last more faint than the other; on which he remarked to some one on the outside of the coach, "that there was something desperate carrying on there."

Isaac Clayton, beadle of Hounslow, said, he received a pair of shoes and a stick from some person he does not recollect, just after the murder of Mr. Steele: he recollected, near six years ago seeing Holloway in company with a man of the same name, who had a wooden leg, about the town of Hounslow; and had seen him also at Brentford election, and other places. The prisoner himself acknowledged he knew him, when examined in Worship-street.

Joseph Townsend, police-officer of Worship-street, produced a huge knotty bludgeon, a pair of shoes, and a hat, which had been given several years ago to Clayton by Hughes, and was delivered to him by Clayton.

J. Blackman, an officer, knew Haggerty seven years, Hanfield five years, and Holloway a year and a half. About four years ago, he had seen often them together at the Turk's Head, when he conversed with Haggerty, and observed to him he had been lately in a good thing, as his dress was much improved; the prisoner said, he had left it all off now, as he was serving a plasterer near Hounslow. He was dressed in a green velveteen jacket and small clothes.

A hat was then produced in court, which had been the property of the deceased, by whom it was given to a servant man, who had since worn it almost to rags. The hat had been very much widened in the wearing, and, when placed on Holloway's head, appeared rather too large for him.

William Robinson, hatter to the deceased, stated that the hat must have been enlarged by wearing, as he had Mr. Steele's measure in 1802, and could answer for it, that the deceased's hat must nearly fit the prisoner Holloway, as their heads were nearly the same size.

William Britton, shoemaker, knew well the deceased's measure, and thought his boots would fit the prisoner Haggerty. The shoes produced in court, he said, he had tried on the prisoner, and found them rather too large; but added that it was plain from the manner the hind-quarter of the shoe had fallen inwards, that they were too large for their original wearer.

The prosecution being closed, the prisoners were called on to make their defence.

Haggerty protested he was completely innocent of the charge, was totally ignorant of the prosecutor Hanfield, denied ever being at Hounslow, and en-

deavoured to point out some inconsistencies in the evidence which had been adduced by Hanfield.

Holloway declared he was equally innocent of the charge; but admitted he had been at Hounslow more than once, might have been in the company of the prisoner Haggerty and Hanfield, but was not acquainted with either of them.

The jury retired for about a quarter of an hour, and returned with a verdict of *Guilty* against both the prisoners.

The recorder immediately passed sentence in the most solemn and impressive manner, and the unhappy men were ordered for execution on the following Monday morning. They went from the bar protesting their innocence, and apparently careless of the miserable and ignominious fate that awaited them.

During the whole of Sunday night, the convicts were engaged in prayer, never slept, but broke the awful stillness of midnight by frequent protestations of reciprocal innocence. Holloway delivered, in the most solemn manner, the following energetic address: "Gentlemen, I am quite innocent of this affair. I never was with Hanfield; nor do I know the spot. I will kneel and swear it." He then knelt down, and imprecated curses on his head if he were not innocent, and expressed, by God, I am innocent.

After the executioner tied the fatal noose to Haggerty, he brought up John Holloway, who wore a smock-frock and jacket, as it had been stated by the approver that he did at the time of the murder; he had also a white cap on, was pinioned, and had a halter round his neck; he had his hat in his hand; and mounting the scaffold, he jumped and made an awkward bow, and said, "I am innocent, innocent, by God!" He then turned round, and bowing, made use of the same expressions, "*Innocent, innocent, innocent! Gentlemen!—No verdict! no verdict! no verdict! Gentlemen—Innocent! innocent!*"

The crowd which assembled to witness this execution was unparalleled, being, according to the best calculation, nearly forty thousand persons. About eight o'clock not an inch of ground was unoccupied in view of the platform. The pressure of the crowd was such, that before the malefactors appeared, numbers of persons were crying out in vain to escape from it: the attempt only tended to increase the confusion. Several females of low stature, who had been so imprudent as to venture amongst the mob, were in a dismal situation: their cries were dreadful. Some who could be no longer supported by the men were suffered to fall, and were trampled to death. This was also the case with several men and boys. In all parts there were continued cries of *Murder! Murder!* particularly from the female part of the spectators and children, some of whom were seen expiring without the possibility of obtaining the least assistance, every one being employed in endeavouring to preserve his own life. The most affecting scene was witnessed at Green-Arbour Lane, nearly opposite the debtors' door. The lamentable catastrophe which took place near this spot, was attributed to the circumstance of two pie-men attending there to dispose of their pies, and one of them having his basket overthrown, some of the mob not being aware of what had happened, and at the same time severely pressed, fell over the basket and the man at the moment he was picking it up, together with its contents. Those who once fell were never more enabled to rise, such was the pressure of the crowd. At this fatal place, a man of the name of Herrington was thrown down, who had in his hand his younger son, a fine boy about twelve years of age. The youth was soon trampled to death; the father recovered, though much bruised, and was amongst the wounded in St. Bartholomew's Hospital. A woman, who was so imprudent as to bring with her a child at the breast, was one of the number killed: whilst in the act of falling, she forced the child into the arms of the man nearest to her, requesting him, for God's sake, to save its life; the man, finding it required all his exertion to preserve himself, threw the infant

from him, but it was fortunately caught at a distance by anotner man, who finding it difficult to ensure its safety or his own, disposed of it in a similar way. The child was again caught by a person, who contrived to struggle with it to a cart, under which he deposited it until the danger was over, and the mob had dispersed.

In other parts the pressure was so great, that seven persons lost their lives by suffocation. The body of the crowd, as with one convulsive struggle for life, fought furiously with each other; consequently the weakest, particularly the women, fell a sacrifice. A cart, which was overloaded with spectators, broke down, and some of the persons falling from the vehicle were trampled under foot, and never recovered. During the hour the malefactors hung, little assistance could be afforded to the unhappy sufferers; but, after the bodies were cut down, and the gallows was removed to the Old Bailey yard, the marshals and constables cleared the streets where the catastrophe had occurred, when nearly one hundred persons, dead or in a state of insensibility, were found in the street. Twenty-seven bodies were taken to St. Bartholomew's Hospital; four to St. Sepulchre's Church; one to the Swan on Snow-Hill; one to a public-house opposite St. Andrew's Church, Holborn; one, an apprentice, to his master's, Mr. Broadwood, piano-forte maker, in Golden-square; a mother was seen to carry away the body of her dead son; and Mr. Harrison, a respectable gentleman, was taken to his house at Holloway A sailor boy was killed opposite Newgate, by suffocation; in a small bag which he carried was a quantity of bread and cheese, and it is supposed he came some distance to witness the execution. After the dead, dying, and wounded were carried away, there was picked up a cart-load of shoes, hats, petticoats, and other articles of wearing apparel. Until four o'clock in the afternoon, most of the surrounding houses contained some person in a wounded state, who were afterwards taken away by their friends on shutters or in hackney coaches. At Bartholomew's Hospital, after the bodies of the dead were stripped and washed, they were ranged round a ward, with sheets over them, and their clothes put as pillows under their heads; their faces were uncovered, and there was a rail along the centre of the room; the persons who were admitted to see the shocking spectacle, and identified many, went up on one side and returned on the other. Until two o'clock, the entrances to the hospital were beset with mothers weeping for their sons! wives for their husbands! and sisters for their brothers! and various individuals for their relatives and friends!

THE UNKNOWN MURDERER,

OR THE POLICE AT FAULT.

The following case is interesting chiefly from the complete perplexity in which the reader is left at the conclusion, as to the agent or the motives which led to the crime, after his curiosity has been raised by glimpses of light which seem for a time likely to lead to the truth, but prove at last to be mere *ignes fatui*, successively disappearing, and leaving the matter involved in the same darkness and mystery as before.

The event to which we allude took place in 1817, in the town of M——. In that place resided a goldsmith named Christopher Ruprecht, aged upwards of sixty; rich, illiterate, quarrelsome, covetous; rude in speech, vulgar in his habits, whose chief indulgence consisted in frequenting low ale-houses, and mingling in such haunts with the most disreputable of the lower classes. His selfishness and his repulsive manners had alienated from him all his

relations, with the exception of a sister and a daughter, who was married in the town, and who still continued, as much from interest perhaps as affection, notwithstanding his peculiarities of temper, to visit him regularly.

Ruprecht had for some time past selected, as the favourite inn in which he chose to take his ease, a small ale-house at the end of a dark winding lane, which, from its gloomy situation, bore the appropriate title of Hell. About half-past eight o'clock on the evening of the 7th of February, 1817, he repaired thither according to custom, took his seat among the circle which generally assembled round the inn fire on the first floor, and in his usual petulant and ill-tempered style, joined in the conversation, which was prolonged till past ten o'clock, when Ruprecht despatched the landlord to the ground floor for a further supply of beer. As the landlord was reascending the stairs, a voice from the passage below was heard inquiring if Ruprecht was above; and on the landlord answering (without turning his head) that he was, he was requested by the person below to desire him to come down. No sooner was the message delivered to Ruprecht, than he rose and hastily left the room. A minute had hardly elapsed when the company heard distinctly from the passage below loud groans, followed by a sound as of a heavy body falling in the passage. All hurried down stairs to the number of eleven. Ruprecht was found lying near the house-door still alive, but covered with blood flowing from a large wound on his head; his leather cap at a little distance, which had been cut through by the blow. The only sounds which he uttered, when lifted up, were, "The villain—the villain with the axe." And once afterwards, "My daughter, my daughter." She was immediately sent for; but his mind apparently wandered, and he did not recognise her.

No trace of the assassin appeared in the neighbourhood; no weapon was found in the passage or near the door. The wound, when examined, was found to be one inflicted with a sharp instrument—to be about four inches long, extending along the top of the head, but sinking towards the back, upon the left side of the skull, and deeper at the bottom than the top. That it had not been given in the passage seemed pretty clear; first, from the circumstance that a lamp always burned there, and servants were constantly crossing and recrossing; secondly, that to have inflicted such a wound, the blow must have fallen with great force from behind and from above; while the lowness of the roof, which any one might touch with his hand, would have rendered it impossible for the murderer, in such a position, to have raised his arm so as to have directed his weapon with any force against his victim. From the position, too, in which Ruprecht was found, immediately behind the house-door, which was open, the probability was, that the fatal blow had been given without the door, and that Ruprecht, after receiving it, had been able to stagger back into the passage. The house, as already mentioned, stood at the extreme corner of an obscure lane, to which there was no access from the other side. Two steps led to the door in front, and on the left side of these steps was a stone seat, about two feet in height, and standing on these steps apparently, the murderer had awaited him, and when the goldsmith came to the steps in front of the door, directed his blow at him from this "bad eminence" behind.

With what weapon the blow had been inflicted was not so clear. The unconnected expressions of Ruprecht seemed to point at an axe as the instrument; but the opinion of the medical inspector rather was, that the blow had been given by a heavy sabre, and by an experienced hand.

In the mean time all that could be done further was to wait, in hopes that the wounded man would so far recover his senses as to be able to throw some light upon this atrocious deed. On the evening of the following day, he appeared sufficiently in his senses to warrant the judge in commencing his examination. The wounded man's answers were given in monosyllables. He was asked, "Who struck you?"—"Schmidt."—"What is this Schmidt—

where does he reside?"—"In the *Most*."*—"With what did he strike you?"—"A hatchet."—"How did you know him?"—"By his voice."—"Was he indebted to you?" He shook his head. "What was his motive?"—"Quarrel." From the state of exhaustion in which he appeared to be, the judge did not interrogate him further at the time as to the nature of the quarrel. To the first and second interrogatories, which were repeated, he again distinctly answered "Schmidt—wood-cutter." And he gave the same answer to similar questions put to him afterwards, in presence of the officials, by his daughter, sister, and son-in-law.

Who then was Schmidt, whom the dying man had denounced as his murderer? Schmidt is as common a name in Germany as Smith in England; and accordingly it turned out that there were three Schmidts in the town, all wood-cutters. One of them, Abraham Christopher Schmidt, resided in the Hohen Pflaster; the other two, who were brothers, lived in the street called the Most, or the Walsh, to which the wounded man appeared to have alluded. With regard to the first, it was ascertained that he laboured under the charge of having been in early youth connected with a gang of thieves, and having been imprisoned in consequence; the second, who went by the name of the Great Schmidt, had been an old acquaintance of Ruprecht's, but had ceased to be so in consequence of having given evidence against him in an action of damages; the third, who was distinguished from his brother by the name of the Little Schmidt, was also an acquaintance of Ruprecht's, but one with whom he had never appeared to be on good terms.

Before proceeding to the arrest of any of these individuals, Ruprecht, who had in the mean time undergone the operation of trepanning, was again examined. When asked, in addition to the former questions,—to which he gave the same answers,—which of the Schmidts he meant, the Great or the Little, he made some attempts to speak, but failed. When asked again whether he resided on the Most,—he was silent. Was it upon the Hohen Pflaster? He answered with difficulty, but distinctly, "Yes;" and then relapsed into insensibility.

As he thus wavered between the inhabitants of the Most and that of the Hohen Pflaster, it was evident that all the three Schmidts must be taken into custody. They were accordingly apprehended, with the view of being confronted with the wounded man, and the murderer, if possible, identified by him. When they were brought into his room, Ruprecht was sensible, but unable to lift up his eyes, so that the main object of the interview was baffled. There were differences, however, in the behaviour of these individuals, which, while they tended to avert suspicion from two of them, directed it with increasing force against the third. The two brothers appeared perfectly composed; they spoke to Ruprecht, called him by name, and expressed their sympathy for his situation. Not so the Schmidt of the Hohen Pflaster. He seemed agitated and restless; when asked if he knew the person in bed, he first said he did not, then that it was Ruprecht, and that he knew him well; first, that he remained with his mother-in-law, on the evening of the murder, till eleven; then, that he had left his house at nine, and gone instantly to bed. He protested his innocence and ignorance of the whole matter, and appealed to the testimony of his mother-in-law, his wife, and his neighbours. His evident agitation, and his contradictions, which he did not make any farther attempt to reconcile, appeared to the judge sufficient grounds for subjecting him to the provisional arrest, and on the tenth of February he was committed to prison.

On the following day all hope of eliciting further information from Ruprecht was put an end to by his death. After the interview already mentioned, he never recovered his senses.

Subsequent investigations tended to increase the suspicions against Chris

* The name of a street in the town, also called the Walch.

topher Schmidt which his behaviour on the first occasion had awakened. On inspecting his house, the handle of his axe, near the blade, was found to be streaked with red spots resembling blood. The truth of the report as to his former imprisonment for theft he did not attempt to deny; though he alleged that he had been merely made the innocent instrument of conveying the stolen property into town. His inconsistencies and contradictions on his first summary examination were still more startling and irreconcilable than those into which he had run when confronted with Ruprecht. When asked to explain how he knew the wounded man to be Ruprecht, since he stated he had never seen him before, he gave no other explanation except that he had heard before of the accident which had befallen him, as it was the general theme of conversation at the Boar.* To the question where he had been on Friday night, he first answered that he had been along with his wife and child in the house of his mother-in-law, where they were accustomed to work in the evenings, to avoid the expense of light at home, till nine o'clock, when he had taken his child home, and gone to bed, where he had remained till next morning at seven; that his wife had not returned till ten, having had to work a little longer with her mother, and intrusted the child to his care. "But," said the judge, "yesterday you said you did not return till eleven o'clock."—"Yes, at eleven—I returned with my wife."—"A few minutes ago you said you returned at nine, and that your wife remained behind you; now how do you explain this?"—"My neighbours will testify I returned at nine. My wife remained for a short time behind me—she returned after ten, when I was asleep; she must have come in by using the key of the street door."—"The key of the street door, you said a little ago, was in your mother's possession, in the house; how could your wife, who was at her mother's, have used it to obtain admission?"—"She had the key with her. I said my wife returned along with me at nine o'clock, assisted me to put the child to bed, then took the house-key off the table, and returned to her mother's. She came back at eleven o'clock at night."—"Just now you said at ten."—"I was asleep; it may have been ten."

These irreconcilable contradictions as to the hour at which he himself had returned—which he sometimes stated to be nine, sometimes eleven; as to his returning alone or in company with his wife; as to the hour at which she had returned, and the mode by which she had obtained admittance; his previous imprisonment; his conduct when confronted with Ruprecht; and during his examinations his downcast and suspicious look; his anxiety to avoid any lengthened explanations; the spots upon his axe; the dying expressions of Ruprecht as to the name and residence of his murderer; all these, taken together, formed a most suspicious combination of circumstances against Schmidt.

On the other hand, the very grossness of these contradictions seemed to lead to the inference that they must have proceeded rather from want of memory, of intellect, or self-possession, than from a desire to pervert the truth. It was unlikely that any one but a person whose intellectual faculties were weakened or disordered either by natural deficiency or temporary anxiety and fear, or both, should in the course of half an hour vary his account of the time at which he returned home, from nine to eleven, from eleven to nine; or at one moment represent himself as returning alone, the next in company with his wife. The report of his relations and neighbours proved that such was the character of Schmidt; that his dulness of intellect almost amounted to idiocy; and that his serious, quiet, sheepish manner had procured him the nickname of "Hammela," or the sheep. It was not difficult, then, to believe that a man, who, according to these accounts, never was able under any circumstances to express himself clearly, or almost intelligibly, when suddenly apprehended, confronted with a dying man, imprisoned and examined, called

* A little ale-house, in which he stated he had been the day after the event.

upon to explain contradictions, should at once lose the little remnant of composure or intellect that remained to him, and answer without understanding the questions put to him, or the answers which he gave. For instance, his answer to the question how he recognised Ruprecht, whom he had never seen, illogical as it was, is intelligible enough when the character of the respondent is kept in view. All he meant to say probably was, that he knew that the person before him was Ruprecht, because he had heard before of the assassination, and that the wounded man was lying in the house where he had been brought to be confronted with him. As to the time and manner of his return, too, a confusion might not unnaturally arise in the mind of one so simple, between the hour at which he had himself returned, and that when his wife had *last* returned from her mother's house; and although even then contradictions existed, many of the circumstances which at first sight appeared inconsistent in his narrative might be explained by supposing the true state of the case to have been this: that he and his wife had left her mother's together at nine, with the child, and gone home; that after her husband and the child were in bed, his wife had, as he stated, returned to her mother's to finish her work, and had finally returned home between ten and eleven o'clock.

This was in fact substantially proved by the investigation that followed. His mother-in-law, Barbara Lang, stated that the husband and wife were accustomed to pass the evening in her house to save fire and light; that they had left the house about half-past nine, accompanied by the child; that her daughter had afterwards returned, and remained with her for about an hour and a half, when she went home. Cunegunda, the wife of the accused, though she represented the hour at which they left her mother's house as earlier than that which her mother had indicated, agreed with her in other particulars. She had accompanied her husband and child home, had seen them in bed, and then taking with her the only light they had in the house, had gone back to her mother's. On her return after ten, she had been let in by the woman of the house, had found her husband asleep, and neither of them had left the house afterwards till next morning. Barbara Kraus, the landlady, had seen Schmidt return home on Friday evening, accompanied by his wife, who bore a light, and carrying his child on his arm, as she thought, between eight and nine o'clock; she had opened the house-door to them, and Schmidt, as he walked up to his room, had good-humouredly wished her good night. She at first stated that she had not again opened the house-door to his wife that night; but upon the question being reiterated, she admitted she might have done so without recollecting, her attention being at the time very much occupied with other matters.

Though there was some discrepancy between these witnesses as to time, that was easily accounted for without any suspicion of falsehood in the case of persons who had no clock or watch in the house to refer to, and particularly in a long and dark night in February. The only question was, which had made the nearest approach to the truth—a question of considerable importance in reference to the possibility of the guilt of the accused. Taking a medium between the different periods, and supposing Schmidt to have reached his house accompanied by his wife about a quarter past nine, and to have been again found in bed on her return about half-past ten, the intervening period of an hour and a quarter was the whole time during which it was possible the crime could have been committed. The blow had been given by all accounts at a quarter past ten; the ale-house, where it took place, was at the distance of about a mile and a quarter from Schmidt's house, and the path of a murderer going to or stealing home from the scene of his crime, is seldom the most direct one. Supposing, however, that there was time enough to have reached the spot, completed the crime, and returned, which was barely possible, was it likely that a murder so cool and treacherous would be perpetrated by one who had been laboriously and industriously toiling for the

support of his family the whole evening by his mother-in-law's fire—who had peaceably returned home and gone to bed with his child—that a being so slow and sluggish in his intellect, so incapable of acting with decision in the ordinary affairs of life, should all at once, as if the scheme had long been matured, seize the instant when his wife had left the house, to spring up, hurry to a distance, lie in wait for, and deliberately murder a fellow being, and then be found quietly asleep at home in the course of a quarter of an hour after the crime was perpetrated? This, if the testimony of his wife was to be believed,—and there existed apparently no reason to doubt its truth,—was, to say the least, in the highest degree improbable.

But the red spots upon the handle of his axe? How were these to be accounted for? The accused answered that if such spots existed, of which he knew nothing, they must have proceeded from a swelling in the hand, produced by heat, which had burst the day before. But the swelling, it was answered, is upon the *right* hand; the stains are on the upper part of the handle near the blade, which is held in the *left* hand; if the stains had been occasioned by blood flowing from the swelling on the right, they must have been on a different part of the handle entirely, near the bottom. The accused replied that he was what is generally termed left-handed, and that in hewing, contrary to the usual practice, he held the lower part of the handle in his left hand, and the upper in his right; a statement which was corroborated by his mother and others who were acquainted with him. Farther, the medical officer of the court, on examining the stains, expressed his doubts whether they were really stains from blood at all, since they appeared to rub out more easily than they would have done if they had proceeded from such a cause. On this ground of suspicion, therefore, it was evident nothing could now be rested.

The examination of the axe showed farther, that it could not well be the weapon with which the wound had been inflicted. The wound caused by the blow of an axe striking straight down, and not drawn along like a sabre cut, was not likely to be longer than the edge of the blade itself. But here the length of the edge was only three and one-third inches, the length of the wound four inches, while the cut in the leather cap which had been divided, was four and one-third inches in length. The form of the wound in the head, too, which at both ends came gently to a point, seemed irreconcilable with the broad and equally defined incision all along, likely to be made by the blade of an axe.

Even the slender support afforded to the accusation by the charge of a previous imprisonment for theft, was next removed. The prisoner's vindication of himself was found to be substantially correct; while his good character for sobriety, industry, simplicity, and good nature for years past, was established by a mass of evidence.

Thus, one by one, the grounds of suspicion which had at first appeared to be assuming so firm and compact a form, crumbled away; and though Christopher Schmidt was not yet finally liberated, it was evident that as matters stood his speedy acquittal from the charge was certain. But as the cloud of suspicion passed off from Christopher, it gathered for a moment round the heads of his namesakes, the Great and the Little Schmidt, inhabitants of the Walch-street.

Both of these individuals, as already mentioned, had been acquainted with Ruprecht; and so far at least as occasionally carousing together went, had been for a time among his usual boon companions. Their intimacy, however, for it never seemed to have amounted to friendship, had been suddenly put an end to in consequence of a quarrel, in which Ruprecht got involved with the surveyors of his district, Friedmann and Gotz, in the course of which the goldsmith, having publicly made some unfounded and abusive charges against these official persons, was convicted upon the evidence of his former acquaintances, the Schmidts, and sentenced to a short imprisonment on bread

and water. Ruprecht had retaliated by an action of damages against Götz and Friedmann, which was still in dependence at the time of his death. Was it possible, then, that these persons had made use of the Schmidts, who had previously given them the benefit of their testimony against Ruprecht, as instruments of their revenge against their pertinacious opponent? Possible certainly; but in the highest degree improbable; for the surveyors appeared throughout the whole proceedings with Ruprecht to have acted with the greatest discretion and forbearance; and their general character was that of men utterly incapable of any act so atrocious, particularly from a motive so inadequate. Not less satisfactory was the report as to the character of the supposed actors, the Schmidts, who were remarkable in their neighbourhood for their industrious and honest conduct, while the proof as to their not having committed the crime was finally placed beyond a doubt by the evidence of several witnesses, who spoke to the fact of their having returned home early on the night of the murder, and not having left the house till next morning.

Two other circumstances at this time occurred, as if to show the endlessness of this search after Schmidts: the one that two other Schmidts were discovered, not indeed living in the town, but in the suburbs, and one of them the woodman generally employed by Bieringer, Ruprecht's son-in-law; but against neither of these was any trace of suspicion found. The other circumstance was, that it was now ascertained that Ruprecht had not only varied in his accounts as to the residence of his supposed assassin, but that in some of his conversations with his relatives, when asked if he knew who had injured him, he had answered in the negative. Perhaps then the whole was a mere vision growing out of the confusion of his mind at the time, and his mixing up the idea of a woodman's axe, which he naturally enough imagined had been the instrument of his death, with the recollection of the two wood men, the Schmidts, who had played so conspicuous a part in the proceedings at the instance of the surveyors.

Long indeed before this conclusion had been come to, it had occurred to some of the official persons that they were proceeding on a wrong scent, and that the actors in the villany were to be found nearer home.

When Ruprecht was found in the passage immediately after the blow, the expressions he used, it will be recollected, were—"Villain, with the axe!" And shortly afterwards, "My daughter!—my daughter!" These had been naturally interpreted at the time into an expression of his anxiety to see her; but circumstances subsequently emerging seemed to render it doubtful whether his exclamation did not bear a less favourable meaning.

The matrimonial life of Bieringer and his wife, it appeared, had been long a very unhappy one. Her husband for a time constantly complained to his father-in-law of her love of dress, and her quarrelsome temper; which on one occasion had reached such a height, that she had been subjected to an imprisonment of forty-eight hours for disturbing the peace of the neighbourhood. This last remedy had been found more efficacious than the previous complaints, and from that time down to the death of Ruprecht, the couple had lived on tolerable terms.

Not so, however, Ruprecht and his son-in-law. Bieringer, who was a man of some education and refinement of manners, had never concealed the dislike with which he regarded the vulgar propensities of his father-in-law; and this, added to his complaints against his wife, had so irritated the old man, that he never spoke of Bieringer but in terms of violent hostility. But a few days before his death, he had called him, before his own servant, a damned villain, whom he would never speak to even if he were on his deathbed. Actuated by these feelings towards him, Ruprecht had for some time past determined to make a will, by which his property, which he was to leave his daughter, was to be placed entirely beyond the control of her husband; and this intention he had announced, about two months before his

death, *to his daughter*, and more lately to his apprentice Högner, to whom he assigned as his reason his determination to disappoint that villain his son-in-law. Nay, within a few hours of his murder, he had sent for Högner to assist him in arranging his papers, and had fixed the following Sunday for completing the long-projected testament. This intention he had announced in the hearing of his servant. From some one of these sources his determination might have been communicated to Bieringer; a sufficient motive for the removal of the testator would thus have been furnished; and unquestionably there was a singular coincidence in point of time between the conversation of Friday afternoon and the murder at night, which favoured the suspicion that they might stand to each other in the relation of cause and effect.

When the intelligence of his father-in-law's being wounded was first brought to the house of Bieringer, he observed to his wife coldly, and with an appearance of ill-humour, that she must go over to see her father, to whom something had happened, adding, "we have nothing but plague with him." The conduct of the daughter when she came into the ale-house seemed to some of the spectators to display a want of real feeling. One of her first concerns was, to see whether her father had his keys about him, and having ascertained that he had, she took possession of, and walked away with them. With the removal of her father from the inn to his own house, all her lamentations ceased. She appeared, as some of the witnesses stated, scarcely to treat him with ordinary kindness, and to give grudgingly, and of necessity, what was necessary for his comfort.

While the investigation was proceeding against the Great Schmidt, she displayed a singular anxiety to increase the suspicion against him, by reporting conversations with her father which no other person had heard; in which, besides pointing out Schmidt Woodman as his murderer, he was made to add, "he was a large man." Her own husband, Bieringer, it is to be observed, was very small in stature. She made great efforts to be allowed to be present when Schmidt was confronted with her father, alleging, as her reason, that she wished to remind him of the omniscience of God, which might, perhaps, lead him to confession; for the others she was assured were innocent of the crime.

These attempts to throw suspicion on one who was clearly proved to have had no concern with the murder, the other suspicious circumstances in the conduct of the daughter, the situation in which Bieringer stood with his father-in-law, and the temptation to make away with Ruprecht, arising from the intended execution of the testament, left at first a strong impression on the mind of the judge that Bieringer, or some emissary of his, would be found to be the murderer.

Here also, however, as in the former cases, the grounds of suspicion vanished, one by one, into thin air.

That the words "my daughter!" uttered by Ruprecht, truly denoted nothing else but his anxiety to see her, appeared from the fact mentioned by his sister Clara, that such was his constant practice when any thing unpleasant or vexatious happened to him, and also from the evidence of the landlady of the Hölle, who stated that she herself had first suggested sending for his daughter, to which he assented by an affirmative nod of his head. Bieringer's coldness and indifference when the news of the accident were delivered to him, were such as might have been expected from one who, for a long time before, had been on terms of mutual dislike with his father-in-law; but by no means easily reconcilable with the supposition that he was himself, mediately or immediately, his murderer. The inferences arising from the depositions of the first witnesses as to the insensibility evinced by the daughter, were entirely neutralized by the evidence of others, who described her conduct as dutiful and affectionate in the highest degree; even her taking the keys from her father's person appeared to have been done at the suggestion

of the surgeon who was present, and who imagined that the murder might have been committed as a preliminary to robbery. Her accusation of Schmidt might have been founded on expressions really used by her father, whose mind, it was now plain, had often wandered after the blow. And the anxiety with which she followed it up was natural, and even laudable, supposing her to have once adopted the idea that Schmidt was the murderer. Even the ground-work of the whole suspicion, namely, the supposed motive arising from the intended execution of the testament by which his wife's fortune was to be placed beyond Bieringer's control, was completely shaken; for it was found that there was not even probable evidence that ever such an intention had reached his ears. His wife stated that she had never communicated to him her conversation with her father, which, from the indifferent terms on which they lived, and the consideration that it would have been an advantage to her had her father lived to carry his intentions as to his will into effect, appeared extremely probable; nor had Högner, his other confidant, divulged it to any one. The maid, who had been present during the interviews with Högner on Friday afternoon, equally disclaimed having ever spoken of it. His brother and sisters had never heard of Ruprecht's intentions. Finally, there was distinct evidence that Bieringer himself at least had not been the murderer, because at a quarter past ten, when the murder was committed, he was proved to have been quietly seated in the parlour of the Golden Fish. The result of the preliminary investigations on the whole was to satisfy the judge that no real ground of suspicion existed either against Bieringer or his wife.

Even after all these failures the investigation was not abandoned. The servant who had been called upon to point out the name of any person who had done business with Ruprecht shortly before his death, mentioned that three persons, appearing to be of the regimental band, had been in Ruprecht's house on the morning of the murder. On inquiry, it was ascertained that this statement was correct, and the three men, who turned out to be oboe-players in the band, were forthwith taken into custody. It appeared, from their own admission, that one of them, Pröschl, had procured a loan of twenty-two florins from Ruprecht shortly before; that the creditor had become clamorous for payment, and that the debtor, accompanied by the other two, Mühl and Spitzbart, had called on Ruprecht on the Friday morning, with the view of obtaining some delay; and that Ruprecht had fixed the following morning for accompanying Pröschl to his brother-in-law, from whom he said he expected to receive the money. Add to this, the opinion, which from the first had been expressed by the inspecting physician, that the blow seemed to have been inflicted by a sabre; and there was enough to warrant the judge in thinking, that here, at last, he might have stumbled upon the real murderer. Here also, however, the rising fabric of evidence was at once overturned by a clear proof of alibi on the part of one and all of the suspected assassins.

And here, at last, justice was obliged to give up the pursuit; nor has any light been since thrown upon this strange story.

THOMAS SIMMONS,

FOR MURDER, OCTOBER 20, 1807.

The prisoner was arraigned at the bar on the morning of the 4th of March, 1808, and the usual plea having been received, the case, which consisted of a few facts only, to be substantiated by evidence, was opened by Mr. Pooley. He mentioned the circumstance of the prisoner's having lived fellow servant

at Mr. Boreham's, at Hoddesdon, with Elizabeth Harris, to whom he had paid his addresses, wishing to marry her; with other particulars which would appear in evidence, and would be necessary to connect the facts, and to ascertain the motives upon which the murder had been perpetrated.

Elizabeth Harris, being sworn, and asked in whose service she was at the time of this unfortunate accident, answered that she then lived with Mr. Boreham's family, and for four years preceding; that the prisoner had lived there three years, but quitted his service at Michaelmas. On being asked if the prisoner had not expressed some strong inclination to marry her, she answered that he had, but that her mistress disapproved of it; and that he had quarrelled with the witness on that account before he left the service, and was so enraged as to beat her; and not contented with this, declared that he did not care if he had killed her; further adding, that he had often said he would make away with her, because she would not marry him. She then added, that the murder was effected about half-past eight in the evening; that she first heard him coming along the yard towards the house, at which time she was in the kitchen; that she heard him swearing violently, and she requested him not to make a noise or disturbance, as there was company in the house; but he said he did not care for the company, as he would do for them all. The witness then ran into the wash-house, and shut the door, when he struck at her through the lattice.

At this time the noise being very considerable, Mrs. Hummerstone opened the door and came into the yard, telling him to go away; when he struck her on the head, and knocked off her bonnet; on which she ran back into the house, and he followed her immediately. The witness heard the shrieks of murder, though she could not tell from whence they came, as all the family were in the room, consisting of Mrs. Boreham's three daughters, with Mrs. Warner, a married daughter, their father and mother, and Mrs. Hummerstone. The witness then added, that the prisoner very soon came towards the wash-house, when she again shut the door, and cried out, Murder! and immediately ran into the sitting room.

She saw some person lying under the window, but from her fright could not say who it was; she ran away down the passage, followed by the prisoner, where she met her master, a very feeble old man, with a poker in his hand, who was knocked down in running hastily. Being seized by the prisoner, the witness was thrown down, when he drew a knife across her throat, by which her hand, in guarding it, was much cut; and, in his second attempt, she wrested it from him, on which he ran away immediately, and she saw no more of him. In his attempts to murder the witness, he threw her across Mrs. Warner, who was then, as she believed, lying dead.

Sarah Cakebury was next sworn, who deposed, that she lived near Mrs. Boreham's at the time of this misfortune, on the 20th October, and was alarmed on that evening with the cry of murder; on which she went into the house, when she passed Mrs. Hummerstone, and saw Mrs. Warner lying dead under the window.

George Britton was afterwards sworn, who stated, that on the fatal evening of the 20th October, in consequence of hearing of this melancholy event, he went to Mr. Boreham's house at Hoddesdon; and, after he had been informed more particularly respecting it, proceeded without delay in search of the murderer. On finding the hat of Tom Simmons, the prisoner at the bar, in the cow-house, he went in search of him, but did not find him.

Thomas Copperthwaite, on being sworn, deposed, that he also went in search of the murderer, and discovered Simmons the prisoner concealed under some straw in a crib in the farm-yard; and on being interrogated as to his dress, he stated, that he had on a smock-frock, which was very bloody, and that the place where he was found was about a hundred yards from the house.

The coroner, Benjamin Rook, Esq. being next called and sworn, deposed

that when the testimony of Elizabeth Harris, at the time of the inquest, was read to the prisoner at the bar, he said it was very true; that he had murdered them, and no one else; that it was not his intention to have murdered Mrs. Hummerstone, but that he went to the house with a full design to murder Mrs. Boreham, Mrs. Warner, and Elizabeth Harris the servant.

The constable, under whose custody he was conveyed to Hertford jail, on being sworn, deposed to the same effect; with this additional circumstance, acknowledged to him by the prisoner, that after he had thrown the servant down, he heard something fluttering over his shoulders, which made him get up and run away.

The evidence being summed up by Mr. Justice Heath, before whom he was tried, on a case so very clear, he said, that observations were rendered unnecessary; because, if any doubt could possibly have existed of the prisoner's guilt, he had more than once voluntarily acknowledged it. The jury almost instantly gave the verdict of *Guilty;* and the judge proceeded, without delay, to pronounce the dreadful sentence of the law in the accustomed manner; to be hanged on the following Monday, and his body to be committed to the surgeons to be anatomized. The sentence seemed to affect him very little, and he walked from the bar with great coolness and indifference; and suffered the punishment denounced for his crime accordingly, on the 7th of March, 1808.

It will appear from the preceding account of the trial for the murder of Mrs. Hummerstone, that no indictment was preferred on account of Mrs. Warner. Our readers should be acquainted that Mrs. Warner, the eldest, and only married daughter of Mr. Boreham, and her whole family were of the society of quakers, and was then on a visit to her parents at Hoddesdon. Mrs. Hummerstone was housekeeper to Mr. Batty, of the Bull Inn there, and superintended the business; and was then at Mr. Boreham's by invitation to spend the evening. Mrs. Warner's husband was a brass-founder, residing in the Crescent, in Kingsland Road, and the factory was in the Crescent, in Jewin-street, near Aldersgate. The prosecution of the indictment for the murder of Mrs. Hummerstone was carried on at the instance of Mr. W. White, and Mr. B. Fairfax, of the Black Bull Inn, Hoddesdon, and Mr. J. Brown, churchwarden; a measure rendered absolutely necessary from the refusal of Mr. Boreham's family to prosecute on behalf of Mrs. Warner.

MAJOR ALEXANDER CAMPBELL,

FOR THE MURDER OF CAPTAIN ALEXANDER BOYD, AT ARMAGH, IN A DUEL, 1807.

Alexander Campbell was brevet-major in the army, and a captain in the 21st regiment of foot: he was a first cousin of the earl of Breadalbane, a man beloved and esteemed by all his friends. After the unfortunate duel, which took place in June, 1807, major Campbell made his escape from Ireland, lived with his family, under a fictitious name, in Chelsea; but his mind became so uneasy that he at last determined to surrender himself.

Accordingly, in the summer of 1808, he was indicted at the Armagh assizes, for the wilful and felonious murder of Alexander Boyd, captain in the same regiment, by shooting him, the said Alexander Boyd, with a pistol bullet, on the 23d of June, 1807, in the county of Armagh, in the kingdom of Ireland.

George Adams, who was assistant-surgeon in the 21st regiment, since April twelve months, said he knew major Campbell and captain Boyd. In

June 1807, they were quartered in the barrack in the county of Armagh, side of Newry. On the 23d of said month he was sent for in great haste to captain Boyd, who died of a wound he received by a pistol bullet, which penetrated the extremity of the four lower ribs, and lodged in the cavity of the belly. On that day the regiment was inspected by General Kerr, and after the inspection the general and officers messed together. About eight o'clock, all the officers left the mess, except major Campbell, captain Boyd, witness, and a lieutenant Hall. A conversation was then commenced, by major Campbell stating, that general Kerr corrected him that day about a particular mode of giving a word of command, which he conceived he gave right. He mentioned how he gave it, and how the general corrected him. Captain Boyd remarked, that "neither was correct according to Dundas, which is the king's order." (This colloquy, witness stated, took place in the usual mode of conversation.) Major Campbell said it might not be according to the king's order, but still he conceived it was not incorrect. Captain Boyd still insisted "it was not correct according to the king's order." They argued this some time, till captain Boyd said, "he knew it as well as any man." Major Campbell replied, he doubted that much. Captain Boyd at length said, "he knew it better than he did, and he might take that as he liked." Major Campbell then got up and said, "Then, captain Boyd, do you say I am wrong?" Captain Boyd replied, "I do; I know I am right, according to to the king's order." Major Campbell then quitted the room. Captain Boyd remained after him some time: he left the room before witness or lieutenant Hale, but no observations were made on his going, more than any other gentleman who had dined there. Witness and lieutenant Hall went out together in a short time after; they went to a second mess-room, and there captain Boyd came up to them and spoke to them. They then went out together, and witness left captain Boyd at lieutenant Deivaris's. In about twenty minutes after, he was called upon, to visit captain Boyd. He found him sitting in a chair and vomiting blood; he examined his wound, and conceived it a very dangerous one. He was in great pain, and survived it about eighteen hours. Witness stayed with him till he died, during which time he got gradually worse till his dissolution.

John Uvey stated that he is a mess-waiter of the 21st regiment, and was so then. He remembered the night this affair took place; knew major Campbell and captain Boyd. He saw major Campbell that night in a room where he was washing glasses; major Campbell had quitted the room about ten or fifteen minutes. As the major was coming up-stairs, captain Boyd was leaving the mess-room, and they met on the stair-head; both went into the mess-waiter's room, and there remained ten or fifteen minutes, when they separated. Prisoner, in about twenty minutes, came again to witness, and desired him to go to captain Boyd, and tell him a gentleman wished to speak to him, if he pleased. Witness accordingly went in search of captain Boyd; he found him on the parade-ground; he delivered the message, and captain Boyd accompanied him to the mess-room; no one was there. Witness pointed to a little room off it, as the room the gentleman was in. He then went to the mess-kitchen, and in eight or ten minutes he heard the report of a shot, but thought nothing of it till he heard another. Witness then went to the mess-room, and there saw captain Boyd and lieutenants Hall and M'Pherson. Captain Boyd was sitting in a chair vomiting blood. Major Campbell was gone; but in ten or twelve minutes he came to the room where witness was washing glasses. Major Campbell asked for candles; he got a pair, and brought them into the small room. Major Campbell then showed the witness the corners of the room in which each person stood, which distance measured seven paces. Witness never saw major Campbell after till a week before, though witness never quitted the regiment, but retained his employment.

John M'Pherson stated, that he was lieutenant in said regiment, knew

major Campbell and captain Boyd, and recollected the day of the duel. On the evening of that day, going up-stairs about nine o'clock, he heard, as he thought, major Campbell say, "On the word of a dying man is every thing fair?" He got up before captain Boyd replied. He said, "Campbell, *you have hurried me—you are a bad man!*" Witness was in coloured clothes, and major Campbell did not know him; but said again, "Boyd, before the stranger and lieutenant, was every thing fair?" Captain Boyd replied, "Oh no, Campbell, *you know I wanted you to wait and have friends!*" Major Campbell then said, "Good God! will you mention before these gentlemen—was not every thing fair? Did not you say you were ready?" Captain Boyd answered, yes; but in a moment after said, "Campbell, *you are a bad man!*" Captain Boyd was helped into the next room, and major Campbell followed, much agitated, and repeatedly said to captain Boyd, that he (Boyd) was the happier man of the two. "I am," exclaimed major Campbell, "an unfortunate man, but I hope not a bad one." Major Campbell asked captain Boyd if he forgave him. He (captain Boyd) stretched out his hand, and said, "I forgive you—I feel for you—and am sure you do for me." Major Campbell then left the room.

John Greenhill was produced to prove that major Campbell had time to cool after the altercation took place, inasmuch as he went home, drank tea with his family, and gave him a box to leave with lieutenant Hall, before the affair took place.

The learned judge, in his charge, briefly summed up the main points, and thus concluded:—

It has been very accurately stated to you by the counsel for the prosecution, that illegally killing a man, by the law of England, must fall within one of the three species—homicide, manslaughter, or murder; and that with homicide you had nothing to do, as the case before you was clearly neither chance-medley, self-defence, nor any kind of justifiable homicide. The case, then, must either be manslaughter, or murder. Manslaughter is illegally killing a man under the strong impulse of natural passion. Three qualities are necessary to constitute it. In the first place, the passion must be natural; that is to say, such as is natural to human infirmity under the provocation given;—secondly, the act must be such as the passion naturally, and according to the ordinary course of human actions, would impel;—and thirdly, and indeed mainly, the criminal act must be committed in the actual moment of the passion, *flagrante animo*, as it is termed, and before the mind has time to cool. The act of killing, under such circumstances, is manslaughter. But if any of these circumstances be wanted; if the passion be beyond the provocation—beyond what the provocation should naturally and ordinarily produce; if the act be beyond the passion—beyond what the passion would naturally and ordinarily impel, or if it be not committed in the very moment of the passion, and before the passion either has or should have passed away;—in all these cases, the act of criminal killing is not manslaughter, but murder.

Now to apply this to the present case. The provocation, as stated by the evidence, consisted in these words, "Do you say I am wrong?"—"Yes, I do;" and the manner in which those words were said. It remains for you, therefore, gentlemen, to judge, whether such a provocation was sufficient to constitute that passion which, under the interpretation of the law, would render the prisoner at the bar guilty of manslaughter only, or whether the consequent passion was not above the provocation, and, therefore, that the prisoner is guilty of murder. You will consider this coolly in your own judgment, and will remember upon this point the evidence that has been given; that the words were certainly offensively spoken, but that it was in the heat of argument, and that by a candid explanation, as the evidence expressed it, the affair might not have occurred.

You will next have to consider, whether the criminal act was committed

in the moment, the actual moment of the passion; or whether the prisoner had time to cool, and to return to the use of his reason. Upon this point, you must keep your attention more particularly fixed on that part of the evidence which goes to state that major Campbell returned home, took his tea, and executed some domestic arrangements, after the words, and before the meeting. If you are of opinion, either that the provocation, which I have mentioned to you, and which you collect from the evidence, was too slight to excite that violence of passion which the law requires for manslaughter; or that, be the passion and the provocation what it might, still that the prisoner had time to cool, and return to his reason—in either of these cases, you are bound upon your oaths to find the prisoner guilty of murder.

There is still another point for your serious consideration. It has been correctly stated to you by the counsel, that there is such a thing which is called the point of *honour*—a principle totally false in itself, and unrecognised both by law and morality; but which, from its practical importance, and the mischief attending any disregard of it to the individual concerned, and particularly to a military individual, has usually been taken into consideration by juries, and admitted as a kind of extenuation. But in all such cases, gentlemen of the jury, there have been, and there must be, certain grounds for such indulgent consideration—such departure from the letter and spirit of the law. In the first place, the provocation must be great; in the second place, there must be a perfect fair dealing—the contract, to oppose life to life, must be perfect on both sides, the consent of both must be full, neither of them must be forced into the field:—and thirdly, there must be something of necessity, to give and take the meeting; the consequence of refusing it being the loss of reputation, and there being no means of honourable reconciliation left.

Let me be not mistaken on this serious point. I am not justifying duelling; I am only stating those circumstances of extenuation, which are the only grounds that can justify a jury in dispensing with the letter of the law. You have to consider, therefore, gentlemen of the jury, whether this case has these circumstances of extenuation. You must here recall to your minds the words of the deceased, captain Boyd—"You have hurried me—I wanted to wait and have friends—Campbell, you are a bad man." These words are very important; and if you deem them sufficiently proved, they certainly do away all extenuation. If you think them proved, the prisoner is most clearly guilty of murder; the deceased will then have been hurried into the field; the contract of opposing life to life could not have been perfect. It is important, likewise, in this part of your consideration, that you should revert to the provocation, and to the evidence which stated that the words were offensively spoken, so as not to be passed over; but that the affair would not have happened, if there had been a candid explanation. Gentlemen of the jury, you will consider these points, and make your verdict accordingly.

The jury then retired, and, after remaining about half an hour out of court, returned with their verdict—*Guilty of murder;* but recommended him to mercy.

Sentence of death was immediately passed on the unfortunate gentleman, and he was ordered for execution on the following Monday; but, in consequence of the recommendation of the jury, he was respited till Wednesday se'nnight. In the mean time, every effort was made by the friends of the unfortunate man to procure the royal mercy. The grand jury of the county, and the jury who had found him guilty, presented petitions to the lord-lieutenant of Dublin.

Mrs. Campbell, his wife, immediately on hearing the verdict, set off post for Dublin; and, finding the packet had sailed, crossed the channel in an open boat, landed in safety at Holyhead, and arrived in London within twenty-eight hours. She then proceeded, without loss of time, to Windsor, and presented a memorial to the queen, imploring her intercession in behalf of her husband, stating the circumstances of the duel, and detailing his

services in the army. She continued incessant in her applications; on her knees she solicited, in the most pathetic terms, the intercession, not only of her majesty, but also of the princesses. She even went to Brighton, to wait on his royal highness the prince of Wales, who immediately wrote a note to the duke of Portland. This note Mrs. Campbell presented to his grace, who gave no hope that her application would be attended with success.

The respite expired on the 23d of August, and an order was sent from Dublin Castle to Armagh, for the execution of the unfortunate gentleman on the 24th. His deportment, during the whole of the melancholy interval between his condemnation and the day of his execution, was manly, but penitent; such as became a Christian towards his approaching dissolution. When he was informed that all efforts to procure a pardon had failed, he was only anxious for the immediate execution of the sentence. He had repeatedly implored that he might be shot; but as this was not suitable to the forms of the common law, his entreaties were, of course, unsuccessful.

During the absence of his wife, he was led out for execution, on Wednesday, the 24th of August. This spectacle was truly distressing, and tears and shrieks burst from several parts of the crowd. When the executioner approached to fix the cord, major Campbell looked up to heaven. There was now the most profound silence; and the executioner seemed paralyzed whilst performing the last act of his duty.

JAMES STUART,

FOR THE MURDER OF SIR ALEXANDER BOSWELL.

The indictment was as follows:—

"James Stuart, clerk to the signet, lately residing in Charlotte-street, of Edinburgh, you are indicted, and accused at the instance of Sir William Rae, of St. Catharine's, baronet, his majesty's advocate for his majesty's interest; that, albeit, by the laws of this and of every other well-governed realm, murder is a crime of a heinous nature, and severely punishable; yet true it is and of verity, that you, the said James Stuart, are guilty of the said crime, actor, or art and part; in so far as you, the said James Stuart, having conceived malice and ill-will against the late Sir Alexander Boswell, of Auchinleck, baronet, and having formed the unlawful design of challenging the said Sir Alexander Boswell, and others of the lieges, to fight a duel or duels, you did, upon the 9th, or one or other of the days of March, 1822, in order to enable you the better to accomplish your said unlawful design, repair to Glasgow to obtain, through the medium of William Murray Borthwick, formerly one of the proprietors or printers of the newspaper called the Glasgow Sentinel, and then a prisoner in the jail of Glasgow, the manuscripts of sundry articles which had been published in the said newspaper, and other papers and documents connected with the said newspaper, which were then in the premises in Nelson-street, of Glasgow, occupied by Robert Alexander, editor and proprietor of the said newspaper, and in the lawful possession and custody of the said Robert Alexander; and the said William Murray Borthwick having been liberated from jail, as arranged and concerted by or with you, and having, on the 11th, or one or other of the days of the said month of March, carried, or caused to be carried, away from the said premises in Nelson-street, of Glasgow, sundry writings, the property, or in the lawful possession of the said Robert Alexander; and having brought, or caused to be brought, the said writings to the Tontine Inn or hotel, in Glasgow, where you then was you did thereby obtain access to the said writings; and having

found, or pretended to have found among them, some writings holograph of the said Sir Alexander Boswell, you did wickedly and maliciously challenge the said Sir Alexander Boswell to fight a duel with you; and a time and place of meeting having been concerted, you did, upon Tuesday, the 26th day of March, 1822, or upon one or other of the days of that month, or of February immediately preceding, or of April immediately following, upon the farm of Balbarton, in the shire of Fife, a little to the northward of the road from the village of Auchtertool to the burgh of Kircaldy, and about three quarters of a mile or thereby distant from the said village of Auchtertool, in the said shire, wickedly and maliciously discharge, at the said Sir Alexander Boswell, a pistol loaded with ball, whereby the said Sir Alexander Boswell was mortally wounded, the ball having entered near the root of the neck on the right side, and shattered the collar-bone, of which mortal wound the said Sir Alexander Boswell died in the course of the next day, and was thus murdered by you, the said James Stuart. And you, the said James Stuart, conscious of your guilt, in the premises, did abscond and flee from justice; and a letter, bearing to be dated, 'Auchinleck, Nov. 7, 1821,' and to be subscribed 'Alexander Boswell;' as also a writing, intituled 'Whig Song,' and addressed on the back, 'For Mr. Alexander, Sentinel office, Glasgow;' a letter or writing, bearing to be dated, 'Dumbarton, December 17, 1821,' subscribed 'Ignotus;' and a writing entitled 'James Perry, Esq., late proprietor and editor of the Morning Chronicle,' and addressed on the back, 'Mr. Alexander, Sentinel office, Glasgow,' being all to be used in evidence against you at your trial, will be lodged in due time in the hands of the clerk of the high court of justiciary, before which you are to be tried, that you may have an opportunity of seeing the same: at least, time and place above libelled, the said Sir Alexander Boswell was murdered; and you, the said James Stuart, are guilty thereof, actor, or art and part. All which, or part thereof, being found proved by the verdict of an assize, before the lord justice-general, the lord justice-clerk, and lord commissioners of justiciary, you, the said James Stuart, ought to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

(Signed) "DUN. M'NEILL, A. D."

Mr. Stuart's plea was "*Not Guilty.*"

The Earl of Rosslyn, being called, deposed as follows:—On the 25th of March last, he called on Sir A. Boswell, and told him, he had come at the desire of Mr. Stuart; and that Mr. Stuart had in his possession certain papers, some of which appeared to be in Sir Alexander's handwriting, and bore the postmark of Mauchlin, and the counter postmark of Glasgow. Some of them purported to be originals of papers published in the Glasgow Sentinel, and one of them, particularly (a song), contained allusions disrespectful to Mr. Stuart's family, and charged Mr. Stuart with cowardice. Among the papers there was a letter to the editor of the Sentinel, signed, A. Boswell, containing some praise of the song, and other papers reflecting on Mr. Stuart, which were in the same handwriting with the letter which bore Sir Alexander's signature. The similarity of the handwriting and of the postmark furnished so strong a presumption that Sir Alexander was the author, that he thought it proper to ask Sir Alexander if he was the author, or if he had sent them to the newspaper, stating at the same time, that if Sir Alexander could say that he was not the author, and had not sent them to the newspaper, that would be conclusive, notwithstanding any evidence to the contrary.

Sir Alexander said that this was a delicate affair, and he thought he ought to have a friend present. Witness said he thought it very desirable. Sir Alexander went away, and returned with Mr. Douglas, when witness repeated what he had previously said. Sir Alexander and Mr. Douglas desired to confer together. Witness went away, and when he returned, found Mr. Douglas alone. Mr. Douglas then said, that he could not advise Sir Alexan-

der to give any answer; that Mr. Stuart was in possession of the evidence on which this application rested; but if this affair should proceed any further, there were two proposals which he had to make:—1. That no meeting should take place within fourteen days, because Sir Alexander had some family business to dispose of. 2. That the meeting, if any, should take place on the continent. Witness had no hesitation in replying, that on these conditions he thought the terms were such as would be agreed to. He had copies of the manuscripts and papers in his hand, when he called on Sir Alexander. He had a song and a paper signed "Ignotus." He thought the song of far the greater importance, because it contained two direct imputations of cowardice He considered Mr. Stuart's character implicated by those papers (which, being shown to the witness, he identified in court). Mr. Douglas said he would not advise Sir Alexander to make any answer at all. Witness afterwards saw Mr. Stuart, and proceeded immediately to Mr. Douglas, and stated that witness was grieved that no alternative was left to Mr. Stuart; that Mr. Stuart agreed to both the conditions stated by Mr. Douglas, namely, the delay of fourteen days, and that the meeting should be upon the continent. It was agreed that all subsequent arrangements respecting the meeting on the continent should be settled when all the parties were in London. Witness then asked Mr. Douglas, if there was any possibility of not carrying this affair any further; that Mr. Stuart would be content to treat the song as a very bad joke on his part, provided Sir Alexander would say that he did not intend any reflection on Mr. Stuart's courage. Mr. Douglas said he had no hope that Sir Alexander would say any such thing. Witness left Mr. Douglas to return to Fife, in the conviction that every thing was finally settled. The boat was ready, but before he embarked, he was accosted by Mr. Douglas, who said Sir Alexander had taken the advice of a legal friend, and in consequence thought it no longer necessary to go to the continent, and that he preferred to have the meeting in Scotland. Witness objected to that; after some discussion, Mr. Douglas returned to Edinburgh, saying at parting, that at any rate, if the meeting took place in France, and Mr. Stuart fell, Sir Alexander could not be hanged for it. Mr. Brougham called on witness next morning, at about from a quarter to eight to half-past eight, and stated, that Sir Alexander had been bound over by the sheriff of Edinburgh to keep the peace, and that it had been settled that Sir Alexander and Mr. Stuart should meet at Auchtertool that morning, and requested witness to meet Mr. Stuart, which he did. He went there, and had some conversation, and fixed on a piece of ground near the road side. Mr. Stuart and Sir Alexander arrived in carriages, and got out at the place they had fixed upon, he believed at ten o'clock. The pistols were produced by Mr. Douglas and witness, Mr. Douglas sitting down, and witness standing; Mr. Douglas received from witness the measure of powder for each pistol, and the ball, and rammed them down. There were but two pistols, of which Mr. Douglas took one, and witness the other. The ground was measured, twelve very long paces. The pistols were delivered to the two parties respectively, one by Mr. Douglas and one by me; and it was agreed that they should fire by a word. Mr. Douglas looked upon him (witness) to give the word, which he did, and they fired. Sir Alexander fell. Mr. Stuart advanced with great anxiety towards Sir Alexander; but witness hurried Mr. Stuart away. Those who remained, together with witness, lent their assistance to convey Sir Alexander to Balmuto. Before any thing took place on the ground, Mr. Stuart asked witness, if it was not fit that he should make a bow to Sir Alexander, and express his wish for a reconciliation. Witness thought it right. Mr. Stuart advanced towards Sir Alexander, apparently for that purpose; Sir Alexander's back was then turned, and he appeared to be walking away from Mr. Stuart.

Cross-examined by Mr. Jeffrey.—Witness was satisfied in his own mind that the letter signed "Ignotus," and the letter containing the song, were in

the same handwriting as the letter bearing Sir Alexander's signature; and that both papers threw an imputation of cowardice on Mr. Stuart. From the whole of Mr. Stuart's conduct throughout the proceeding, there was no appearance of personal ill-will or resentment on the part of Mr. Stuart against Sir Alexander; but only anxiety to defend his own character from the imputations with which it had been assailed, particularly from that of cowardice He found Mr. Stuart perfectly reasonable throughout the proceedings. Mr Stuart's conduct, from first to last, was cool, composed, and temperate, and such as might be expected from a man of constancy and courage. This observation applied as well to his conduct on the field as previously. On the field, witness desired Mr. Stuart to present his side and not his bust; Mr Stuart replied, "I do not think I ought to take an aim." The word agreed upon was (both parties having been asked if they were ready)—"Present, fire," as quickly in succession as they could be given. Both the pistols went off, also, as quickly in succession as possible; but Mr. Stuart's pistol was rather the first. From his acquaintance with Mr. Stuart, he could say that he never knew a man less quarrelsome or vindictive. Mr. Stuart was much occupied in public business, and had made great improvements in the county of Fife. Never, though field sports were going on, saw Mr. Stuart with a gun in his hand in his life.

Mr. Douglas, after stating the previous circumstances which had been mentioned by Lord Rosslyn, described the arrival of the parties on the ground. Witness advised Lord Rosslyn not to pass through the village, lest he should be known. Lord Rosslyn went another road, and was first on the ground. The ground was approved of by all parties. Witness asked Lord Rosslyn if he thought there was any chance of an amicable arrangement. Lord Rosslyn said he feared not. Lord Rosslyn measured off the ground. Witness desired Dr. Wood not to stand so near: he replied, "He wished to be near, lest Sir Alexander might die before he could come up to his assistance." The parties having taken their positions, Lord Rosslyn proposed that witness should give the command; witness said he wished Lord Rosslyn to do it, which his lordship did. On their way to the ground, Sir Alexander consulted witness as to firing in the air or not. Witness said he (Sir Alexander) must consult his own feelings on that subject. Sir Alexander said he had, perhaps, in an unhappy moment, injured Mr. Stuart, and therefore he should fire in the air. Witness said that was exactly his own opinion. On the field, he did not notice how Sir Alexander fired, as he felt that Mr. Stuart was in no danger, but he kept his eye on Mr. Stuart; saw him raise his arm, which appeared firm and nervous, but he could not tell the direction exactly in which it pointed. Both fired; there was just a difference between the time of the two reports. Mr. Stuart's was rather first. Sir Alexander fell. Assistance immediately was rendered to him. Mr. Stuart approached, and witness advised him to flee. The only words which Sir Alexander spoke to witness then, were, that he regretted he had not made his fire in the air more decided than it had been. Sir Alexander's wound was not dressed on the field, but at Balmuto-house, whither he was immediately conveyed.

Cross-examined by Mr. Cunninghame.—The injury done to Mr. Stuart, to which Sir Alexander alluded, witness understood to be some squibs that he had written concerning him. Sir Alexander had called on witness the Sunday before he met Lord Rosslyn, and said he expected a challenge from Mr. Stuart, in consequence of some papers, and among them a song, having been seized in the Sentinel office. Sir Alexander recited the stanza which he considered obnoxious, and it was the same as that now shown to witness. The information to the sheriff was given by some friends of Sir Alexander. On the field, witness went up to Sir Alexander, and directed him to make his fire in the air as distinct as possible, as that would facilitate an adjustment of the dispute. He directed Sir Alexander to fire into the bank, in the

direction of the seconds. Being asked if in the field Mr. Stuart conducted himself in every respect as became a man of honour and of courage, witness replied certainly.

Dr. Wood said he had accompanied Sir A. Boswell to the field; he did not see any pistols fired: he had instructed the other surgeon that they ought to turn their backs and not see the firing; but that, as soon as they heard the report, they should return and run to the spot as speedily as possible. The pistols were fired in quick succession; going to the spot, they found Sir Alexander wounded in the shoulder; they extracted two pieces of bone; the first was extracted by himself, and the other by Mr. Liston. Witness accompanied Sir Alexander to Balmuto-house, and attended him till three o'clock the next day, when he died. In the carriage, on the way to the ground, Sir Alexander expressed his decided opinion that Mr. Stuart could have done nothing else but call him out. He also declared his intention to fire in the air; and on getting out of the carriage, he said, "Now, gentlemen, observe that it is my fixed resolution to fire in the air."

The evidence of the witnesses next called related only to the handwriting of the two papers.

Mr. William Spalding, writer, recollected in the month of March last, going with Mr. Stuart to Glasgow. Mr. Henderson, writer in Hamilton, accompanied them. Witness called at Mr. Stuart's house, and there, for the first time, learned that Mr. Henderson was to accompany them. The object of their journey was to liberate Mr. Borthwick from prison. They arrived at Glasgow about eleven o'clock on that (a Saturday) night. Mr. Henderson went to the jail the same night; but Mr. Borthwick was not liberated that night. Witness was private agent to Mr. Borthwick. They had an interview with Mr. Borthwick, in the jail, on the Sunday evening; and it was there agreed, that Mr. Borthwick should go and procure certain manuscripts from the Sentinel office, with a view of raising actions of relief against certain gentlemen of the county of Lanark. Mr. Stuart was present only a part of the time during this interview. Cannot tell whether he was present when the proposal for taking the manuscript from the Sentinel office was made. Mr. Henderson was present.

The next morning, Mr. Borthwick went to the office and sent certain MSS. by a man named Robinson, to the Tontine Inn, where they were examined by Mr. Stuart, Mr. Henderson, and himself. Mr. Borthwick did not arrive till after the MSS. had been examined. Mr. Henderson knew Sir Alexander's handwriting, and all the papers written by Sir Alexander were laid apart from the rest. The MSS. now shown witness were those which were selected from the others. It was witness who gave up the MSS. to Mr. Stuart.

Cross-examined by Mr. Cockburn.—The £50, by which Mr. Borthwick was liberated, was paid by Mr. Henderson. No part of that money came either directly or indirectly from Mr. Stuart. On the way to Glasgow never heard Sir Alexander Boswell's name mentioned by Mr. Stuart or Mr. Henderson. It was not mentioned until they saw his letter on Monday.

This closed the case for the prosecution.

The following witnesses were called on for the defence:—

Mr. Henderson, writer in Hamilton, knows Mr. Borthwick, and knew that he had been editor of the Clydesdale Journal. Had been employed as his agent. About the 29th of December he gave him certain papers, in order that he might get quit of certain actions of damages. Came to Edinburgh about the middle of January for that purpose. Had no communication whatever, then, with Mr. Stuart; did not then know that gentleman. Was previously aware of a process brought by Mr. Borthwick against Alexander, the other partner in the Glasgow Sentinel, in which a judgment was pronounced against Alexander, authorizing Borthwick to take possession in six days, as Alexander had not implemented the bargain with Borthwick. Knows that

Mr. Borthwick did take possession on the 1st of March. He was arrested that night for a debt, which witness knew not to be due. Witness came to Edinburgh on the Tuesday following, and applied to Mr. Spalding, whom he had previously employed as Borthwick's agent, to present a bill of suspension. The bill was merely presented. It could not be granted without an answer. Witness therefore resolved to consign the money to the hands of the jailer. Witness was to have advanced it himself; he knew the debt was false, and that there could be no risk. Witness applied to a person to introduce him to Mr. Stuart. His object was to get Mr. Stuart to forego an action of damages which he had brought against Borthwick, and for that purpose witness described the manner in which Borthwick had been imprisoned. Mr. Stuart replied that he could make no promises; that he was convinced Borthwick was not the author of the libels upon him; and if Borthwick would give up the authors, the action should be discontinued. Witness said that Borthwick had often expressed his wish to be introduced to Mr. Stuart, and his readiness to give up the authors, provided that he were freed from the action of damages. Mr. Stuart went with witness, and called on Mr. Spalding, and they proceeded to Glasgow. They obtained an interview with Borthwick, who said, if he were liberated, he would resume possession next morning at the usual hour. Borthwick said he had keys belonging to the office; witness did not see any. Witness procured the liberation of Borthwick on the Sunday evening. Borthwick, when liberated, went to the office, accompanied by witness's clerk, and one Louden Robinson (formerly a journeyman in his employ), as witnesses. Robinson shortly afterwards returned with a bundle of manuscripts of newspapers. Mr. Borthwick came some time after, and said he had been prevented from examining the papers at the office, on account of the violence of Alexander. The handwriting of Sir Alexander Boswell was not discovered until all the handwritings had been assorted in different parcels. Borthwick said it was the writing of one Sir A. Oswald, as he called him; but he said there was a letter from the gentleman himself among the papers. This letter was found, and Mr. Stuart expressed much surprise and astonishment at the discovery; he said he never could have suspected Sir A. Boswell of attempting to injure him. The manuscripts were delivered to Mr. Spalding, not to be given to any one, but to be reserved for the inspection of any one concerned. The money, by which Borthwick was liberated, was paid out of this witness's proper funds.

James Gibson, of Ingliston, esq., W. S., knows Mr. Stuart and Mr. Aiton. Has seen a great many articles in the Beacon and Sentinel, which they considered extremely offensive to Lord Archibald Hamilton, Mr. Stuart, and himself. Has often consulted with Mr. Stuart on the means of detecting the author. Mr. Aiton is the agent for Lord Archibald Hamilton. Recollects the article respecting Mr. Stuart, which appeared in the first number of the Sentinel; considers it a most atrocious libel. Was informed by Mr. Aiton, on one of the first days of March, that Borthwick had possession of the manuscripts of the libels; but on Thursday, the 7th of March, Mr. Stuart told Mr. Gibson that Mr. Aiton was mistaken, as Mr. Borthwick was in Glasgow jail, and had left the papers locked up in a safe in the Sentinel office. Mr. Stuart informed witness that Mr. Borthwick's agent had applied to him in the parliament-house that day, offering to deliver up the papers, provided Mr. Stuart would release him from the action of damages, but Mr. Stuart had declined to come under any engagement. Was informed of the whole transaction respecting Borthwick's imprisonment, and told Mr. Stuart, that he (witness) would pay the debt for which Borthwick was imprisoned, rather than be disappointed of the papers; and he was apprehensive from what he had heard of the character of Alexander, that he would not scruple taking any measures to get possession of, and destroy them. He recommended to Mr. Stuart not to lose a moment in obtaining the papers, but his

only reason for recommending haste, was lest Alexander should destroy them. Mr. Stuart had never hinted a suspicion that Sir A. Boswell was the author of any of the attacks upon him, and expressed his astonishment when, on returning from Glasgow, he acquainted witness of the discovery. Witness was aware that a duel was fought between Mr. Stuart and the late Sir A. Boswell, on the 26th of March last. Saw Mr. Stuart the evening before. Mr. Stuart then acquainted him that the meeting was to take place three days afterwards. Mr. Stuart then appeared perfectly calm and collected, but expressed no other motive for his conduct than a desire to vindicate his character; he did not appear to be actuated by the least vindictiveness against Sir Alexander. The next time he heard of Mr. Stuart was by a sealed packet brought by his clerk next morning at eleven o'clock. The letter was to this purpose: "The other party saw the necessity of instant action, owing to circumstances not known when I last saw you;" and requested witness "if he was completely done for," to deliver a packet which was enclosed to his wife. The same day about two o'clock, witness, when coming to his office, saw Mr. Stuart coming out of it, who instantly, on seeing Mr. Gibson, turned short, and ran up the stairs. Witness followed him into his room; and when witness had closed the door, he said, "Good God! what has happened?" Mr. Stuart ran into the corner of the room, put both his hands on his face in the greatest agony of grief; and as soon as he could speak, he said that he was afraid Sir Alexander Boswell was mortally wounded. After Mr. Stuart had recovered himself a little, he informed witness, in answer to his inquiries, that he had asked Lord Rosslyn whether it would be right, on meeting Sir Alexander Boswell on the ground, that he should take off his hat as a mark of civility. Lord Rosslyn approved, and accordingly Mr. Stuart was in the act of advancing, and putting his hand to his hat, when Sir Alexander Boswell turned away his head.

The lord advocate submitted, that this should not be gone into. It was throwing a reflection on the memory of Sir Alexander Boswell.

Mr. Jeffrey said that there was no such intention. It was right for Mr. Stuart that it should be stated; and he had no doubt that Sir Alexander Boswell's turning away his head, arose from his not being aware of what Mr. Stuart intended to do.

Mr. Gibson proceeded:—Mr. Stuart said to witness that he had taken no aim, and he added, "I wish to God I had done so, as I am certain I should in that case have missed him; I never fired a pistol on foot in my life." Witness immediately urged Mr. Stuart to leave the country, that he might avoid unnecessary imprisonment. Mr. Stuart expressed great unwillingness to do so; but at last consented, on condition of witness giving notice that he would be ready to stand trial when called on: the last words, which Mr. Stuart said, were, "Remember you must give notice, that I am ready to stand trial." Witness did give verbal notice to that effect, to Mr. Sheriff Duff, next morning; and afterwards announced in the Edinburgh Star and Advertiser newspapers, that such notice had been given. He also gave notice to the crown agent, on the 29th of March, the 4th of April, and on many other occasions. Witness never considered Mr. Stuart's leaving town in the light of absconding or flying from justice; Mr. Stuart was one of the best-tempered and most excellent men he knew; he never knew him engage in quarrels, or allow his politics to interfere with his private friendships.

Mr. Liston, surgeon.—Mr. Stuart called upon witness on the morning of the 26th of March, and requested witness to go to the country along with him. And when on the Fife side, he informed him, that he (Mr. Stuart) was to fight a duel with Sir Alexander Boswell. Mr. Stuart said he had no malice against Sir Alexander; he said if he had the misfortune to hit him, he wished it might be in the great toe, as a gentleman in England did lately on a similar occasion. The witness gave the same evidence as Dr. Wood, as to what happened on the ground.

Sheriff Duff recollected proceedings before him in March last, at the instance of Mr. Alexander, to recover certain papers alleged to have been stolen from the Sentinel office, Glasgow; he ordered them to be lodged at his office, which, under a protest, was complied with. Witness identified some of the papers shown him to be the same as were in his personal custody from that time until they were delivered up to the crown agent, as evidence on the trial of William Borthwick. Witness recollected a rencontre between Mr. Stuart and Mr. Stevenson, and their being bound over to keep the peace; also recollected that the affray arose out of language in the Beacon, which witness considered very abusive as respected Mr. Stuart; and that Mr. Stuart subsequently brought to witness a number of the Beacon, which contained further abusive matter, and requested him to take cognizance of it; but he declined, not considering himself warranted to act in the way proposed.

Mr. Spalding was recalled to identify these papers as the same which were found at the Sentinel office, and afterwards delivered up by him to Sheriff Duff.

Many witnesses concurred in describing Mr. Stuart as a most humane and amiable man.

The lord justice clerk charged the jury, who, without leaving the box, returned an unanimous verdict, by their chancellor, Sir John Hope, finding Mr. Stuart *Not Guilty* of the charges libelled. The verdict was received, by a very crowded court, with loud cheers.

MARTHA ALDEN,

FOR MURDER, 1807.

This case, which excited considerable interest, came on at the Norfolk assizes, July 27, 1807, before Sir Nash Grose, knight, when Martha Alden was capitally indicted for the wilful murder of her husband, Samuel Alden, of Attleburgh, Norfolk.

The first witness, Edmund Draper, stated that he knew the deceased Samuel Alden, the husband of the prisoner at the bar; that on Saturday, the 18th of July, he was in company with the deceased at the White Horse public-house, at Attleburgh; that the prisoner, who was present when witness and the deceased met, said to them she was going home with her child, and went away; witness sat drinking with Alden till nearly twelve o'clock, conversing with the wife of the publican; he then accompanied the deceased to his house, which lay in the way to his own home: witness stated, that he himself was perfectly sober at the time; that Alden however was just sober enough to walk; he stayed at Alden's house about three minutes, during which time he noticed that there was a larger fire burning on the hearth in the kitchen than was usual at that time of the year: he said Alden appeared in good health, and that no ill words passed between the deceased and the prisoner in his presence: he proceeded home in the direction of Thetford, and saw no one on the road. This witness described Alden's house to consist of a kitchen and bed-room both on the same floor, and separated from each other by a small narrow passage; he saw no one in the house except the prisoner, the deceased, and a little boy, about seven years old.

Charles Hill, of Attleburgh, stated that on the morning of Sunday, the 19th, he rose between two and three o'clock to go to Shelfanger-Hall, about ten miles from Attleburgh, to see his daughter. The morning being wet, he took the turnpike road in the direction to Thetford, and passed by Alden's

house, from which his own was only two furlongs distant. When he approached the house of the deceased, he saw the door open, and the prisoner standing within a few yards of the door: this was nearly at three o'clock in the morning. The prisoner accosted the witness, and the witness replied, "Martha, what the d—l are you up to at this time of the morning?" She said, she had been down to the pit in her garden for some water; the garden was on the opposite side of the road to the house: she also said, "she had not been long home from the town (meaning Attleburgh town), where she had been at the White Horse: her husband, and Draper, and herself came home together, and her husband was gone back again, she did not know where." The witness did not go into the house; but, looking in, saw some old clothes lying in a heap next the hearth, which, on his inquiring, she said covered her little boy, who was asleep there.

Sarah Leeder, widow, of Attleburgh, knew the prisoner at the bar; she stated, that on Monday night, the 20th of July, the prisoner came to her house to borrow a spade, for that a neighbour's sow had broken into her garden, and rooted up her potatoes; the witness lent her one, which was marked J. H. On the following evening (Tuesday, 21st), about eleven o'clock, she went out of her house upon the common, and in a pit or pond she saw something floating, which attracted her attention; she went to the edge of the pond, and touched it with a stick, upon which it sunk and rose again; but she could not discover what it was, and went home for the night. The next morning (Wednesday, 22d,) however, the witness returned to the spot, and again touched with a stick the substance, which still lay almost covered with water; she then, to her great terror, saw the two hands of a man appear, with the arms of a shirt stained with blood. She instantly concluded that a man had been thrown in there murdered, and calling to a lad to go and acquaint the neighbourhood of the circumstance, went back in great alarm to her own house. In a quarter of an hour she returned again to the pond, and found that in her absence the body had been taken out: she then knew it to be the body of Samuel Alden; his face was dreadfully chopped, and his head cut nearly off: the body was then put into a cart, and carried to the house of the deceased.

The witness afterwards went to look for her spade, and found it standing by the side of a hole, which she described to look like a grave dug in the ditch which surrounds Alden's garden: she further stated, that this hole was open, not very deep, and that she saw blood spots near it. The witness then went into the house, and, entering the bed-room, saw the marks of blood on the bed's feet and on the bed tick: the wall, close against which the bed stood, was also stained with blood.

Edward Rush stated, that on Wednesday morning, the 22d of July, he searched the prisoner's residence: in a dark chamber he found a bill-hook, which on examination appeared to have blood on its handle, and also on the blade; but looked as if it had been washed.

William Parson, jun. of Attleburgh, stated, that on Sunday, the 19th of July, between six and seven in the morning, he met the prisoner with a young woman, named Mary Orvice, on the turnpike road, not far from Alden's house; the prisoner told him she had lost her husband; that two men in sailors' dresses went past her house about two o'clock in the morning, and she had told them, if they overtook a man upon the road, to send him back; but that they only gave her an indifferent answer, and passed on. She expressed herself very unhappy about her husband, and feared that he was either murdered or drowned. On the following day he saw her again; she then said she had lost her husband, and that she had been above thirty miles that day to look for him. This witness further stated, that he was one of the persons who examined Alden's house and premises, on Wednesday, the 22d, and the two following days; his evidence on this point agreed with that of former witnesses, and substantiated some additional particulars, namely, that the chimney-board, on the opposite side of the room to the bed, was marked with blood stains, which bore the appearance of an attempt having been made to

scrape them off with a knife; and that the wall of a narrow passage leading from the bed-room to the kitchen was in places discoloured with blood: he also found a sack upon the bed, with some spots of blood upon it, and a piece of another sack, which seemed to have been partly washed. In a shed adjoining the house, he likewise discovered another sack, concealed underneath nearly a hundred flags of turf.

Mary Orvice stated that she had been acquainted with the prisoner some time. The witness lives at her father's house, a short distance from the prisoner's dwelling. On Sunday, the 19th, the prisoner asked her to go with her to her house: when she got there, the prisoner said to her, "I have killed my husband;" and taking her into the bed-room, showed her the body lying on the bed quite dead; her account of the state and appearance of the room perfectly coincided with the description of former witnesses; she also said she saw a hook lying on the floor, bloody. The prisoner then produced a common corn-sack; and, at her request, the witness held it whilst the prisoner put the body into it; the prisoner then carried the body from the bed-room, through the passage and kitchen, out of the house, across the road to the ditch surrounding the garden, and left it there, after throwing some mould over it. The witness then left the prisoner. On the following night (the 20th), between nine and ten o'clock, the witness was again in company with the prisoner, and saw her remove the body of her husband (who was a small man) from the ditch of the garden to the pit on the common, dragging it herself along the ground in the sack; and, when arrived at the pit, the prisoner shot the body into it out of the sack, which she afterwards carried away with her; the deceased had a shirt on.

On the prisoner being asked what she had to say in her defence, she told an incoherent story, which, however, seemed rather to aim at making the testimony of the last witness appear contradictory and suspicious, and to implicate her in the guilt of the transaction, than to deny the general charges which had been adduced against herself. The judge then summed up the evidence in a full and able manner: on the subject of Mary Orvice's testimony, his lordship remarked, that it certainly came under great suspicion, as being that of an accessory to the attempted concealment of the murder. Viewing it in that light, therefore, and taking it separately, it was to be received with extreme caution; but, if it should be found, in most material facts, to agree with and corroborate the successive statements of the other witnesses, whose declarations did not labour under those disadvantages, the jury were then to give it its due weight, and avail themselves of the information which it threw on the transaction.

The jury consulted together for a short time, and found the prisoner—*Guilty*. The judge, after a short address to the prisoner at the bar, proceeded to pass upon her the awful sentence of the law; which was, that on Friday she should be drawn on a hurdle to the place of execution, there to be hanged by the neck till she was dead, and her body afterwards to be dissected.

The behaviour of the wretched woman during her trial, as well as before it, appeared in a lamentable degree to be influenced by a hardened and remorseless spirit. She afterwards confessed the crime for which she was to suffer. The account she gave of the horrible transaction was, that on Saturday night, the 18th of July, she and her husband (who was at the time intoxicated) quarrelled, and he threatened to beat her. Alden soon after threw himself on the bed, and at that instant she formed the resolution of destroying him: accordingly, she ran into the adjoining room, returned with a bill-hook, which she held in both her hands, and striking him on the forehead instantly killed him. She further acknowledged that the girl (Orvice) had no concern whatever in the murder, but only assisted, at her request, in putting the body of her husband into the sack.

On Friday, July 31, at twelve o'clock, this unhappy female was drawn upon a hurdle, and executed on the Castle-hill, pursuant to her sentence, in the presence of an immense concourse of spectators.

FRANCIS SALIS RIEMBAUER,

FOR ASSASSINATION.

In 1805, Francis Salis Riembauer was appointed to the situation of assistant clergyman in the church of Upper Lauterbach. He had filled a similar situation, for several years before, in various other churches. He had brought with him to Lauterbach a high character for intelligence and polemical ability, as well as for the fire and unction of his discourses, and the extreme sanctity of his life and conversation. His appearance was prepossessing, his stature tall, the expression of his countenance serious but mild, his conversation eloquent and instructive. A peculiar appearance of humility seemed to characterize all his movements; he walked in general with his head sunk down, his eyes half-closed, his hands reverently folded on his breast. His sermons were composed in a strain of enthusiastic piety; the necessity of an absolute separation from this world, and an exclusive devotion to the things of another, were inculcated with earnestness and perseverance. He was supposed by his simple flock to stand in direct communication with the world of spirits, who were said to haunt him in his chamber, beset him in his walks, and move from right to left when he raised his finger. If Riembauer did not himself promote these superstitious notions, he at least did nothing to discourage them, but accepted with his usual appearance of mild indifference the homage which was paid to him.

His high reputation, however, though general, was not universal; most of his hearers thought him a saint, but some doubted. A report had at one time been in circulation that his former colleague at Hofkirchen had warned his successor that he was little better than a wolf in sheep's clothing; and some of the more prudent among the rude forefathers of the hamlet rather discouraged the visits, which he paid with singular punctuality to the female part of their families, for the purpose of confession or penance. His extreme mildness of demeanour and humility of aspect appeared to them overacted; and the refined and spiritual character of his doctrines somewhat inconsistent with the conduct which he shortly afterwards adopted.

At Thomashof, in the neighbourhood of Ober Lauterbach, lived a family of the name of Frauenknecht, consisting of the farmer (an old man who died shortly afterwards), his wife, and two daughters, the elder, Magdalena, then about eighteen years of age, her sister, Catharine, six years younger. The whole family were distinguished for their probity, industry, and hospitable disposition, while Magdalena added to these good qualities a more than usual share of personal attractions. With this family Riembauer had very soon established a particular acquaintance. They were naturally flattered by the visits of one superior to themselves in situation and education, and still more distinguished by the sanctity of his character. But Riembauer carried his condescension farther than seemed consistent with the dignity of his priestly office; for not content with merely visiting the family, he used to give his personal assistance to the old farmer in his field labours, and to perform all the duties of a common servant. Those who entertained an unfavourable opinion of him before, drew additional arguments in support of it from this singular conduct; but Riembauer proved to the majority of his flock, by the authority of Epiphanius and of church councils, that nothing was more common in the primitive times of the church than this union of the spade with the crosier, and that there was something praiseworthy in recurring to that patriarchal simplicity. About the end of 1806, the parishioners were informed that he had purchased Thomashof from the Frauenknechts for 4000 florins, and shortly afterwards he transferred his residence to that farm, still retaining his clerical office and performing its duties with the same zeal and spirit as

before, but combining them with agricultural labours, in which he was assisted by the family of the Frauenknechts, who, notwithstanding the sale, continued to reside upon the farm.

The eldest daughter, Magdalena, was to remain as cook in his family, and with this view she was sent to Munich in the beginning of 1807, where she remained for six or seven months in the house of the Registrator Y——. In June, 1807, Riembauer himself went to Munich, for the purpose of passing his examination as candidate for a church, which he did with great credit to himself. Shortly afterwards (in the beginning of 1808), he obtained the situation of priest at Priel, sold off to advantage the farm which he had purchased from the Frauenknechts, and removed with them, Magdalena having now completed her culinary education in Munich, to his new residence.

Shortly before his removal to Priel, an event had happened in the neighbourhood which at first created a strong sensation, though the utter mystery in which it was involved seemed to have first baffled and finally extinguished all curiosity on the subject. Anna Eichstädter, the daughter of a carpenter at Furth, had engaged herself as servant to a clergyman in the neighbourhood, towards the end of October, 1807. She had obtained permission, however, from her new master, to pay a visit to her relations before finally entering upon her service. As a pledge for her return, she had left with him her silver neck-chain and other articles of some value. It rained in the afternoon when she set out, and at her request he lent her a green umbrella, on the handle of which the initials of his name, J. D. were engraved. Several days elapsed, but she did not return. Among others whom she had mentioned she intended to visit, was Riembauer, with whom she said she had been acquainted while she had been in the service of his former colleague at Hirnheim. To him, accordingly, her new master wrote, after some days had elapsed, mentioning that if she felt reluctant to return to his service, she might at least send back his umbrella. Riembauer replied that he had seen neither the one nor the other, and expressed some astonishment that such an application should have been made to him. Months passed on, but Eichstädter did not appear. The investigations which were resorted to threw no light upon her disappearance; her previous character appeared to have been somewhat light, and her reputation for virtue more than doubtful, but nothing came out which could afford any explanation of her fate. The common conjecture was, that she had either been drowned, or had fallen into the hands of a notorious robber and murderer, who was executed about a year afterwards. Gradually, however, the matter ceased to be talked of, and her fate, even by her relations, was forgotten.

It was some months after her disappearance that Riembauer removed with the Frauenknecht family from Thomashof to Priel. This association, however, was not destined to be of long continuance; the widow Frauenknecht died on the 16th of June, 1809, after a short illness, and her daughter Magdalena followed her five days afterwards. The younger daughter, Catherine, who had never been on good terms with her sister or with Riembauer, had left the family a short time before. After the death of her mother and sister, she had lived as a domestic in different families, in all of which she was remarkable for the singular melancholy, the air of anxiety and restlessness which marked her conduct; solitude seemed irksome to her; to sleep alone at night was an object of terror, and these feelings seemed rather to increase with years than to become less lively. Sometimes she let fall expressions as to some woman whom she could not get out of her head, and whose figure, she said, followed her wherever she went. With these, too, at times, the name of Riembauer was joined, as having had a principal part in those scenes by the remembrance of which she appeared to be haunted. To some of her intimate friends she ventured at last to be more explicit; she stated in plain terms that Riembauer had been the murderer of a woman at Thomashof in

1807, that she had herself been unwittingly a witness to the deed, and that this atrocity had been followed by other crimes, which till that moment had been unsuspected.

At last, in 1813, she laid her information formally before the Landgericht at Landshut, to the following effect: That during the period when her sister Magdalena and Riembauer were both in Munich in 1807, the one in the service of the registrator, the other preparing for his examination, a woman presented herself suddenly at Thomashof. She announced herself as a niece of Riembauer, and being informed that he was then in Munich, demanded the key of his room, which she, Catherine, who was the only person then in the house, at first refused. On the arrival of her mother, however, the key was given to her, and she immediately proceeded with it to the room, which she searched as if the house had been her own. She remained that night, and next morning, when she went away, stated that she had not found her money as she expected, but that she had left a sealed packet for the priest.

On Riembauer's return, which took place about eight days afterwards, he merely remarked, on being told of this domiciliary visit, that it was a niece of his to whom he owed some money. About the 2d of November, in the same year, Catherine and her mother had returned from the field somewhat later than Magdalena and Riembauer; when they drew near the door of the house, they thought they heard in the upper floor a singular noise—whether laughing, weeping, or groaning, they could hardly distinguish; as they entered, however, Magdalena flew to meet them with the frightful intelligence, that a stranger, representing herself as a niece of Riembauer, had arrived shortly before; that Riembauer, after taking her up to his room, had come down on pretence of getting her some refreshment, and taken his razor; and that she had followed him up-stairs, and through the key-hole had seen him draw near to the unfortunate woman with expressions of endearment, and suddenly plunge it into her throat. Even while Magdalena was thus speaking, the groans of the victim and the voice of Riembauer, loud and threatening, were distinctly heard from above. As if fascinated by the terrors of the scene, Catherine ran up-stairs, and saw through the key-hole the priest kneeling over the body of his victim, from which the blood flowed in streams, and which was still heaving with a convulsive motion.

Overpowered with fear, she rejoined her mother and sister in the room below. Shortly afterwards the door of the upper room opened, and the priest came down, his hands and sleeves dropping with blood, the razor still in his right hand. He went into the room to her mother and sister, told them that the woman had constantly persecuted him for money on account of a child which she had borne to him; that she had just been demanding from him one hundred or two hundred florins, and threatening him with exposure in case of refusal; and that not having the money, he had no other alternative left but that of silencing her complaints and her testimony for ever. The mother at first threatened him with the immediate disclosure of the murder; but at last moved, by the desperation of Riembauer, who had seized a rope and announced his resolution of committing suicide, they consented to keep the murder secret, and to assist him, if necessary, in the disposal of the body.

The place chosen for this purpose was a little room adjoining the stable, where a hole was dug by Riembauer for its reception. At midnight on the 3d of November, Catherine said she was awakened by the noise, and saw from the door of her own room Riembauer descend, dragging the body behind him still dressed, and with the head hanging down. Coming down afterwards, she saw him employed in heaping earth upon the body. The spots of blood along the passage he washed out with his own hands; those in his room, which had already become dry, he carefully effaced from the floor by means of a plane, and threw the chips into the stove. A woman's shoe, which the house dog was found dragging next morning about the court,

Catherine took up and delivered to Riembauer, though she could not say how he had afterwards disposed of it. The inquiries of their neighbours, some of whom had heard the disturbance which had taken place the evening before, they answered by saying, that some discussion had arisen relative to the purchase price of Thomashof, which had ended in an altercation between them and Riembauer.

From this moment, however, the friendly intercourse which had subsisted between Riembauer and the Frauenknechts was at an end. Reproaches on the one hand, anxiety and the fear of detection on the other, rendered their residence at Priel irksome to all. Quarrels followed; Magdalena threatened to leave his service, and the fear of exposure began daily to recur more and more vividly to his mind. Immediately afterwards followed the illness and death of her mother and sister. No medical attendant was called during their illness, no clergyman was allowed to approach them, their medicines were all ordered and administered by Riembauer himself. The body of Magdalena after death was found strangely swollen and covered with spots. the blood gushed from her mouth and nose; the apothecary who saw the body after death, conceived she had been in a state of pregnancy, and from all this Catherine drew the conclusion that her mother and sister had been poisoned.

Even before the sudden death of her mother and sister, Catherine had been warned by the latter that Riembauer had designs upon her life, and acting upon this advice she had left his house. Subsequently to this he had made attempts to induce her to return to his service, by promises of a large marriage portion, and other advantages; but determined not to trust herself again in his hands, she had declined all his proposals.

The young woman who had fallen a victim to the treacherous attack of Riembauer, she described as a person of about twenty-two years of age, tall, and rather handsome; she was dressed in the garb of a peasant, and had brought with her a green umbrella, upon which were marked the initials J. D. This umbrella Riembauer had retained, and it was still in his possession.

The events thus disclosed by Catherine Frauenknecht, on the one hand so strange and (looking to the previous character of the alleged criminal) so unlikely, were on the other so consistent and well-connected, and the narration given with so much apparent calmness, distinctness, and confidence, that the court before which the information was first laid ordered an immediate inspection of the scene of the alleged murder, the farm-house of Thomashof, which, as already mentioned, was now no longer in the hands of Riembauer. The result of the examination was such as to confirm in most of its important features the information of Catherine Frauenknecht. In the room adjoining the stable, as described by her, were found a skeleton and a woman's shoe; in that which had been inhabited by Riembauer stains were detected on the floor, which, when moistened with warm water, were found to be the marks of blood; several of the planks in the flooring were marked with hollows and rough edges, as if a plane had been applied to them; and Michael, one of the neighbours, recollected being applied to for the use of a plane by the members of Frauenknecht's family about six years before. The result of this inquisition led to the immediate arrest of Riembauer. His apprehension seemed to excite in him neither surprise nor fear. If he was guilty of the atrocities ascribed to him, he was at least far too cool and circumspect either to betray any tokens of emotion, or to make his case worse by affecting ignorance of matters which he knew were capable of being proved. His policy, if such it were, was of a higher kind, and the course he adopted only reconcilable with the notion either of perfect innocence, or of the most hardened and calculating guilt. He admitted almost every thing which had been stated by Catherine Frauenknecht, but he gave to the whole a turn consistent with his own innocence of the murder.

Though he had heard nothing of the substance of Catherine's deposition, he did not affect to doubt that the death of Anna Eichstädter was the cause of his apprehension. He admitted at once that he had been acquainted with her (though he denied that their acquaintance had been at all of a criminal nature) while assistant at Hirnheim; that in consequence of the confidence she reposed in him she had placed in his hands fifty florins of her savings, and had begged to be taken into his service, which he had promised to do in the event of her future good conduct. Since he left Hirnheim he had neither seen nor heard any thing of her, except that while at Pirkwang she had twice sent messages to him for part of the money in his hands. In 1807, while he was in Munich, she had made her appearance one day at Thomashof, and to the great annoyance of the Frauenknecht family, had communicated to them the promise which had been made to her, that she should be taken into his service as cook. This intelligence rankled in their minds, and they determined by every means in their power to prevent it. It was about eight days after the death of old Frauenknecht that Reimbauer, one evening in the twilight, returned to Thomashof from Lauterbach, where he had been performing a service for the dead. Meeting no one in the passage, he walked straight up to his room, where he found the door open. On the floor lay a figure extended and motionless, and on approaching it he found, to his consternation, that it was the lifeless body of a woman. He ran into the room above, where he found Magdalena and her mother clinging to each other, and trembling like aspen leaves. They wept and conjured him to be silent. They then informed him that the same woman who had visited them at Thomashof in summer had again made her appearance that evening, and demanded admittance into his room, insisting that she was to be received into the house as cook, and that the Frauenknechts would soon be sent about their business. This statement led to reproaches; reproaches to blows. The stranger either struck or attempted to strike Magdalena, who thereupon had seized Riembauer's razor and inflicted on her a mortal wound. On hearing this story he had kindled a light, and entering the room again, recognised in the murdered woman Anna Eichstädter. He at first protested that he would instantly leave the house—that he could not remain longer in their society: but at last, overcome by their tears and entreaties, he was rash, and, as he now deeply regretted, guilty enough to agree to remain and to assist them in concealing the crime, which he had come too late to avert. He had accordingly dug a grave for the body in the stable, and had interred it at midnight, as described in the information of Catherine Frauenknecht. The poisoning of Magdalena and her mother, he entirely denied.

Such were the conflicting accounts given by Catherine and Riembauer as to the circumstances. According to both it was obvious that a murder had taken place at Thomashof, and that Eichstädter had been the victim; the remaining question was, by whom had it been committed?—by the pious Riembauer, hitherto looked upon as a pattern of goodness—or the young Magdalena, whose character for gentleness in the neighbourhood was scarcely less established? In either view of the case there were doubts to be cleared up. If, according to Riembauer's statement, Magdalena was the murderess, the cause assigned seemed insufficient to account for so sudden and complete a change of disposition, or so desperate and atrocious a deed; while the improbability was increased by the consideration that while Magdalena was of a slight and feeble frame, Eichstädter was tall, in good health, of great corporeal strength, and a complete overmatch for her opponent. On the other hand, Catherine's story was not without its difficulties. At the period to which her evidence related she was only twelve years of age, and the self-possession which she had displayed, and the minuteness of her details, indicated an unusual and almost surprising degree of presence of mind and retentiveness of memory. She herself admitted that Riembauer and she had never been on good terms. Her statement that she had heard the words of

the deceased from the upper room, when by her own account her throat had been cut some time before, seemed to be of a most improbable nature; and finally, there was as yet a want of any sufficient motive which could account for the deed, on the supposition that Riembauer was the murderer. As to the charge of poisoning, that rested only on her impression, arising from circumstances, which, though suspicious, were certainly far from being conclusive against Riembauer.

The reason, however, which, according to Catherine's account, he had assigned to her mother and sister for the intrusion of Eichstädter, suggested the propriety of an immediate inquiry into Riembauer's former life and moral habits; and a minute investigation into these particulars, from his youth, during his successive residences at Heerwahl, Obergleim, Hofkirchen, Hirnheim, Sollach, Pfarrkopf, Pondorf, Pirkwang, and Priel, was set on foot. While this was proceeding, it was found that a regular system of subornation had been begun by Riembauer even in prison; that he had written letters to several of his acquaintances, endeavouring to prevail upon them to give evidence that Magdalena had, during her life-time, confessed the murder of Eichstädter; and to his own servant, Anna Weninger, directing her immediately to destroy the umbrella alluded to in the previous detail.* No sooner did he find by the change in his attendants that these attempts had been detected, than he solicited an interview with the judge; told him voluntarily that under the influence of a melancholy to which he was subject, he had written certain letters, the contents of which he did not know; and begged him, should they be found to contain any thing injurious to him, to ascribe it entirely to the influence of that state of mind under which they were written.

The result of the investigation into the previous life of the priest strongly confirmed the evidence of Catherine, by showing that Riembauer's pretensions to sanctity were totally without foundation; that in all or most of his previous residences the proofs of his licentiousness were still extant; while he had more than once resorted to the most infamous means to prevent the consequences of his crimes from coming to light. It was proved that a criminal intercourse had subsisted between him and Eichstädter, begun while he was chaplain at Hirnheim, and continued from time to time down to 1807; that a child, born at Ratisbon, and baptized under a false name, had been the fruit of this connexion; that some months before her disappearance he had visited her at Ratisbon; that she had been seen on that occasion to accompany him part of the way on his return, along with her child; and that they had parted in anger, and with gestures of a menacing nature.

The improbability of Catherine's story, arising from the previous character of Riembauer, was thus at once removed; while a sufficient motive for the murder of Eichstädter—the necessity of getting rid of one who was dunning him for money, and apparently threatening him with exposure—was now furnished by the disclosure of their connexion and its consequences. The main difficulty, too, in the information of Catherine, arising from the apparent impossibility of her hearing the words of Eichstädter under the circumstances stated by her, was obviated by the concurring opinion of the medical men, who agreed that in the event of the head being strongly bent forwards and downwards, it was perfectly possible that the words of Eichstädter might have been distinctly heard, notwithstanding the previous separation of the wind-pipe. On the other charges against Reimbauer, the alleged poisoning of Magdalena and her mother, little further light was thrown. It was established, however, that Magdalena, like many others, had undoubt-

* In one of these letters, addressed to a priest of his acquaintance, he enforces his request that he would give evidence in his favour by the following considerations: "For the sake of our brotherly love; for the sake of my friends, who are in trouble on my account; for the sake of the priesthood, upon which a stain would be cast; and for the sake of true believers, to whom it might be a stumbling-block."

edly fallen a victim to his seductions, and that at the very moment when this consummate hypocrite was undergoing his examination at Munich, in 1807, the unfortunate young woman, who, as already mentioned, had come there on pretence of learning cookery, was recovering in the very same house after the birth of a son.

While the chain of evidence was thus winding itself closer and closer round the criminal, his calmness, his self-possession, his dexterity in evading such questions as he did not choose to answer, his ingenuity in reconciling his contradictions and inventing plausible theories, moral and physical, in support of his own version of the murder, seemed only to increase with the weight and force of the presumptions against him. He generally replied to the questions put to him with a bland smile; if at times he broke out into an expression of some warmth, he would beg pardon for the vehemence into which he had been hurried by a sense of wounded honour; sometimes he would laugh aloud at the lies which he said the devil had invented against him; sometimes, when pressed by an awkward inquiry, he would diverge into a strain of metaphysical subtlety, or endeavour to divert the attention of the judge by passing hastily to some other topic. When confronted with the witnesses, he attempted to influence their evidence by leading questions; by appeals to their compassion or their fears; by artful but apparently straightforward examinations of the circumstances; by dissertations on the risk of error and the heinousness of rash testimony. When these arts failed to shake their evidence, he would relapse into his old preaching tone—exclaim, "*Quis contra torrentem?*"—appeal to the Holy Trinity for his innocence, and protest that he was a defenceless sheep attacked on all hands by devouring dogs. Nothing was extracted from him which materially tended to strengthen the extrinsic evidence against him; although he varied his story in particulars, he adhered pertinaciously to his leading point—that Magdalena was the murderess, and that he had been guilty of no other offence than that of having concealed the crime from motives of compassion.

In this ineffectual struggle, during which the priest had undergone no less than *eighty* examinations, *two years* had passed on, and justice seemed fairly at a stand. Having failed to act on the understanding of the criminal, the judge proceeded, in a way calculated to astonish an English reader, and which we confess we find it difficult to reconcile even with the admitted rules of the German criminal law, to operate upon his imagination. The scene, it must be admitted, was got up with some knowledge of stage effect. On All Souls' day, the day on which, eight years before, the murder had been committed, a new examination was ordered. It began at four o'clock in the afternoon, and being directed to all the mass of evidence hitherto collected, and the contradictions and improbabilities of Riembauer's story, was prolonged till *midnight*. The judge addressed himself next to the conscience of the prisoner, and after concluding an impassioned appeal, he suddenly raised a cloth from the table, under which lay a skull placed upon a black cushion. "This," said he, "is the skull of Anna Maria Eichstädter, which you may still recognise by the two rows of white teeth* in the jaws." Riembauer rose instantly from his chair, stared wide upon the judge, retired a step or two so as to hide the object from his eyes, then resuming his habitual smile and his accustomed tranquillity, he pointed to the skull, and replied, "My conscience is calm. If that skull could speak, it would say, Riembauer was my friend; he was not my murderer." A second attempt to extract some admission from him was not more successful. When they held the skull before his eyes, he betrayed strong internal agitation; but again he mastered himself, and once more repeated, "If the skull could speak, it would confirm the truth of my story."

So ended this abortive attempt to effect by intimidation what they had

* The deceased had been remarkable for the beauty of her teeth.

failed to obtain by the legitimate mode of examination; an attempt which for a moment almost placed this wretched hypocrite in the situation of a persecuted man. Feuerbach details this judicial melodrama without observation, as if the whole were equally justifiable on legal and moral grounds. To us, we confess, it appears wholly indefensible on either. If the German governments have now abolished physical torture as a means of eliciting evidence, on what ground is this moral torture to be vindicated? Is a man less likely to utter rash or dangerous admissions (of which the law in other cases refuses to avail itself) when the shock is administered to his imagination, weakened and harassed by a long previous examination, and a confinement prolonged for years, than when his body is subjected to physical pain? Above all, how can such devices be justified under a law, which, even in permitting the necessary examinations, expressly lays it down that no questions, either captious (meaning thereby such as may involve the party in admissions without his perceiving their tendency) or suggestive in their nature, are to be put to the prisoner; nay, that the name of an accomplice, or any special circumstance connected with the fact, but not yet proved, shall not be suggested to him, otherwise the confession so obtained shall be of no effect! —(*Peinliche Gerichts Ordnung*, Art. 56.)

The inexpediency of such mummeries is not less obvious than the injustice. As a means of eliciting the truth they are almost worthless, for their effect depends chiefly on the state of the nerves and the early associations of the prisoner. When they are calculated to act at all, they are likely to operate against the innocent with scarcely less force than the guilty; for in most cases the object of them, though he may be innocent of the specific fact charged against him, is generally so far mixed up with it as a spectator of the scene, or connected in some way with its actors, that unless he be a person of peculiarly strong nerves, there can be little doubt that such an exhibition at midnight, after an examination of eight hours, and a confinement of two years, would shake his mind from its balance, and might give birth to expressions or signs of emotion which would be interpreted against him. On the other hand, the hardened criminal, against whom it would have been most legitimate to adopt such a means of extracting the truth, is proof against them. Take any shape of superstitious terror that we will, "his firm nerves will never tremble;" and he only becomes more resolute in his denials by perceiving the weakness of a proof which required to be eked out by such illegitimate means.

So it was with Riembauer. For *two years longer* did he contrive to baffle all the efforts of his judges. The record of the proceedings in October, 1816, already filled forty-two folio volumes. At last, however, his firmness gave way, and the cause of the change was nearly as singular as the other circumstances of this remarkable case.

On the 20th November, 1816, a Jew, of the name of Lammfromm,* was executed for murder at Landshut. Riembauer saw him led to execution from his window, and was observed to be much moved by the composure and cheerfulness with which he met his death. On expressing his wonder at the Christian way in which the Jew had terminated his career, he was told (what was the fact), that from the moment he confessed his crime he had attained a calmness and cheerfulness of mind which had supported him in his prison, and accompanied him even on the scaffold. This information seemed to have produced a great internal conflict in the mind of Riembauer; for some days he was restless, and ate little; on the 26th he demanded an audience. It was the hundredth. If he came with the intention of confession, however, he seemed to have altered his mind; he fell on his knees, said he was weary of his existence, that he was haunted by a thousand phantasms in his prison; that when he attempted to pray, his voice was drowned

* Lammfromm, "Gentle as a Lamb," a strange misnomer.

by the sound of a funeral drum: every thing, in short, except that he was guilty of the crime charged against him. Again the judge took the trouble to go over the manifold contradictions and inconsistencies of his story, and pressed upon him, that the visions which preyed upon his mind arose from his own troubled conscience, and that his only chance of relief lay in a full and open confession. Then at last his obstinacy gave way; he begged the protection of justice for his children, and for his servant Anna Weninger; "And now," added he, "this is my confession: Catherine has, in many particulars, told what was not true, but in the main she has spoken the truth. I am the murderer of Anna Eichstädter."

We shall not enter into the details of the assassination, which was attended, according to Riembauer's own account, with circumstances of the most revolting and treacherous cruelty. Suffice it to say, that the motive to the act was that which had been alluded to by Catherine Frauenknecht: that indignant at Riembauer's supposed preference for Magdalena, whom she had in vain attempted to prevail upon him to dismiss, and at his refusal to supply her demands on account of his child, Eichstädter had made a last attempt to effect these purposes by her sudden appearance at Thomashof; that she had enforced her demands by a threat of immediate exposure; that Riembauer had pretended to yield to her importunities, and quitted the room on the pretext of getting her some refreshment, during which time he had prepared himself with the weapon with which the murder was committed. "I thought," said he, "of the doctrine of Father Benedict Stattler in his *Ethica Christiana*, which holds it to be lawful to take away the life of another when there exists no other way of preserving our reputation; for reputation is more valuable than life itself. And we may defend it against an attack, as we should defend ourselves against a murderer." "Of one or both of us," reasoned Riembauer, "the hour is come;" and tranquillized by the doctrine of the Jesuit, he re-entered the room, seized his victim, and completed his crime with a barbarity, the details of which we willingly pass over. Horrible as the concluding incident however is, from the unnatural blending which it exhibits of the language at least of religion with the details of the most remorseless guilt, it is too characteristic of the (almost self-deceiving) hypocrisy of the criminal to be omitted. As his victim lay struggling beneath him, he exhorted her to repentance, and gave her absolution, as he observes, in case of necessity! "While she lay on the ground, I administered to her spiritual consolation, till her feet began to quiver, and her last breath departed. I know no more," continued he, "of this sad story, but my deep grief and silent lamentation, and that I have often since *applied* masses for her soul." How completely does this last expression reveal the idea which this wretch had of the rites of religion, when he talks of applying a mass or two, as an apothecary would of applying an ointment on a plaster!

Of this singular trial, the sentence will probably appear to English readers not the least remarkable feature. After the evidence already alluded to, arising from the deposition of Catherine Frauenknecht, corroborated as it was by the real evidence of so many other circumstances, and finally by the confession of Reimbauer himself, could any one doubt that the punishment awarded must have been that of death? And yet, although the case was successively considered by the tribunals of the first and second instance, the ultimate sentence, which was more severe than the first, was only imprisonment for life: the reason assigned for not inflicting the higher punishment being, that Riembauer was not a person whose previous bad character was notorious, or who had been proved satisfactorily by evidence, *independently of his own confession*, to be a person likely to be guilty of the murder!

ELIZA FENNING,

FOR AN ATTEMPT TO POISON MR. ORLIBAR TURNER AND FAMILY, APRIL 11, 1815.

Eliza Fenning was indicted for that she, on the 21st day of March, feloniously and unlawfully did administer to, and cause to be administered to Orlibar Turner, Robert Gregson Turner, and Charlotte Turner his wife, certain deadly poison (to wit arsenic), with intent the said persons to kill and murder.

Second count, that she did cause to be taken by the same persons, arsenic with intent to kill and murder them.

Third and fourth counts, as in the first and second counts, only charging the offence to be committed against Robert Gregson Turner only, and another count against Charlotte Turner only.

From the age of about fourteen Elizabeth Fenning had been out in servitude; and at twenty-two, in the latter end of January, 1815, being hired as cook into the family of Mr. Orlibar Turner, at No. 68 Chancery-lane, in about seven weeks from that time the circumstances unhappily arose which led to the unfortunate creature's being charged with an attempt to murder Mr. Turner's family.

Mrs. Charlotte Turner sworn:—

Q. At what time did the prisoner come into your service? A. About seven weeks before the accident, as cook.—Q. Had you occasion to reprove her? A. I had, about three weeks after she came.—Q. What was her deportment after that, for the remaining month? A. I observed that she failed in the respect that she before paid me, and appeared extremely sullen.—Q. Did she after this, say any thing to you upon the subject of yeast dumplings? A. She did, a fortnight before the transaction; she requested me to let her make some yeast dumplings, professing herself to be a capital hand. That request was frequently repeated.—Q. On Monday, the 20th of March, was any thing said to you upon the subject of yeast? A. She came up into the dining-room, and said the brewer had brought some yeast.—Q. Had you given any orders to the brewer to bring any yeast. A. Oh no! I told her I did not wish to trouble the man; that was not the way I had them made; I generally had the dough from the baker's; that saved the cook a great deal of trouble, and was also considered the best. Having this yeast, I said it was of no consequence, as the man had brought a little, the next day she might make some, I told her. On Tuesday morning, I, as usual, went into the kitchen. I told her she might make some; but, before she made the dumplings, to make a beef steak pie for dinner for the young men. As she would have to leave the kitchen to get the steaks, I did not wish her to leave the kitchen after the dumplings were made. I told her I should wish the dough to be mixed with milk and water. She said she would do them as I desired her; this was about half-past eleven. She carried the pie to the baker's before kneading the dough commenced. I told her I wished her not to leave the dough, that she might carry the pie to the baker's.—Q. At about what time did she carry the pie to the baker's? A. I suppose near twelve.—Q. How soon after twelve did you go into the kitchen again, after she had been to the baker's? A. I gave her directions about making the dough. I said, I suppose there was no occasion for me stopping. She said, Oh no, she knew very well how to do it; and then I went up stairs.—Q. How soon after that did you go into the kitchen again? A. Not more than half an hour. I then found the dough made: it was set before the fire to rise.—Q. What other servant had you? A. We have one more, a house-maid, Sarah Peer.

Q. Where was she at the time the dough was made ? A. I had given Sarah Peer orders to go into the bed-room, to repair a counterpane.—Q. Then during the time that the dough was made, was any person in the kitchen but the prisoner ? I am certain there could be nobody.—Q. This was about half-past twelve ? A. I suppose it might be half-past twelve. We dined at three, the young men at two.—Q. In the interval between half-past twelve and three, were you again in the kitchen ? A. I was in the kitchen two or three times, until the dough was made up into dumplings.—Q. Where was the dough ? A. That remained in the pan before the fire for the purpose of rising, but I observed the dough never did rise.—Q. Did you take off the cloth to look at it ? A. I did ; my observation was, that it did not rise : and it was in a very singular position, in which position it remained until it was divided into dumplings ; it was not put into the pan, as I have observed dough ; its shape was singular ; it retained the shape till the last.—Q. It remained heavy all the time ? A. Yes, not rising at all. I am confident it never was meddled with after it was put there.—Q. At about what time was the dividing of the dumplings to put them into the pot ? A. About twenty minutes before twelve. I was not in the kitchen at the time.—Q. How late before had you seen it ? A. About half an hour of that time.—*One of the Jury.* Did you remark to her the singular appearance of the dough ? A. I did not remark to her the singular appearance. I told her it had never risen. The prisoner said it would rise before she wanted it.—Q. How many dumplings would there be ? A. Six.—Q. It was afterwards divided into six dumplings ? A. Yes.—Q. About three o'clock did you sit down to dinner ? A. I did : these six dumplings were brought upon the table.—Q. Did you make any observation upon their appearance ? A. I did. I told the other servant they were black and heavy, instead of being white and light.—Q. Who set down to dinner with you ? A. My husband, Robert Gregson Turner ; his father, Orlibar Turner. I helped them to some dumplings, and took a small piece myself.—Q. How soon afterwards did you find yourself ill ? A. I found myself affected in a few minutes after I had eaten. I did not eat a quarter of a dumpling. I felt myself very faint, and an excruciating pain ; an extreme violent pain, which increased every minute. It came so bad, I was obliged to leave the table. I went up-stairs.—Q. I believe you ate nothing else ? A. Yes, I ate a bit of rump steak.—Q. Who had cooked that ? A. Eliza. When I was upstairs I perceived my sickness increased, and I perceived my head was swollen extremely. I retched very violently.—Q. How soon after you had been up-stairs did you find any of your family ill ? A. I was half an hour alone, and wondered they did not come to my assistance. I found my husband and father very ill, both of them. I was very ill from half-past three until about nine ; very sick and ill, retching from three till nine. The violence abated, but did not cease. My head was swollen, and my tongue and chest were swollen. We called in a gentleman who was near, and afterwards Mr. Marshall, the surgeon.—Q. You applied for the nearest assistance you could get ? A. Yes.

Cross-examined by Mr. Alley.—Q. This happened about six weeks after the girl came to live with you ? A. Yes.—Q. You had no other cause of complaint except that you forgave her ? A. No.—Q. On that day the coals had been delivered, had they not ? A. I do not think it was that day ; the girl is here that received them : it could not be that day ; she had no occasion to receive the coals.—A. The prisoner herself was taken very ill, was she not ? *A.* I have heard so.

Orlibar Turner sworn.—Q. On Tuesday, the 21st day of March, were you at your son's house in Chancery-lane ? A. I was ; I dined there.—Q. Your dinner consisted of yeast dumplings, beaf steaks, and potatoes ? .A It did.—Q. After some time, did Mrs. Turner leave the room indisposed ? A. She did, sir.—Q. After she was gone up-stairs, you did not know that she was ill ? A. Not at the time that she left the room.—Q. Some time afterwards did your son leave the room, and go down-stairs ? A. He did, sir ; and I followed

him very shortly. I had gone into my parlour below. I came into the passage. I met my son in the passage, at the foot of the stairs; he told me that he had been very sick, and had brought up his dinner. I found his eyes exceedingly swollen; very much indeed. I said I thought it very extraordinary. I was taken ill myself in less than three minutes afterwards. The effect was so violent, I had hardly time to go into my back yard before my dinner came up. I felt considerable heat across my stomach and chest, and pain.—Q. Was the vomiting of the common kind? A. I never experienced any before like it; for violence before: it was terrible indeed.—Q. How soon after did you observe any other of the family ill? A. It was not more than a quarter of an hour when my apprentice, Roger Gadsden, was very ill, in a similar way to myself.—Q. Was your son sick also? A. He was.—Q. And while you and your son were sick, and Gadsden were sick, where were you? A. I was repeatedly in the parlour and the back yard. My son was up and down-stairs at intervals. Gadsden, I believe, was in the kitchen below.—Q. Did you observe the prisoner? Did she give you any assistance? A. Not the smallest. We were all together alarmed. It was discovered that she did not appear concerned at our situation.—Q. I take it for granted that you had suspicion of arsenic? A. I had; I made a search the next morning.—Q. You expected it was poison? A. I did.—Q. Did you observe the brown dish or pan in which the dumplings had been mixed? A. I did on the next morning, on the Wednesday morning.—Q. Did you find any thing remaining in that pan that appeared to be the leavings of the dumplings? A. I did; it stuck round the pan. I put some water into the pan, and stirred it up with a spoon, with a view to form a liquid of the whole. I found, upon the pan being set down for a moment or two, or half a minute, upon taking it slowly and in a slanting direction, I discovered a white powder, at the bottom of it. I showed it to several persons in the house. I kept it in my custody.—Q. Did you show it to Mr. Marshall? A. I kept it in my custody for that purpose; I locked it up until Mr. Marshall came. No person had access to it.—Q. Had any arsenic been kept in any office in the house? A. It had.—Q. In what place? A. In a drawer in the office, fronting the fire-place in the office.—Q. What was it in? A. In two wrappers, tied round very tight: the words "Arsenic, deadly poison," wrote upon it.—Q. Do you happen to know whether the prisoner can read? A. I believe she can both read and write.—Q. [*To Mrs. Turner.*] Is that so, Mrs. Turner? A. Yes, she can read and write very well.—Q. Mr. Turner, was that drawer locked or open? A. It has always remained open: any person might have access to it.—Q. Who lit the fire, do you know? A. It was the prisoner's duty to do so.—Q. Would she probably resort there for paper to light the fire with? A. She might resort to that drawer for loose paper that was kept in that drawer: she might properly resort to it to light a fire.—Q. Had that parcel of arsenic been missed before that time? A. I had seen it there on the 7th of March; not since that time. Before the 21st March, I heard of its being missed about a fortnight.—Q. Did you make any observation about the appearance of the knives and forks? A. I did, which we ate the dumplings with. I have two of them in my pocket now, to show; they have been in my custody ever since. I saw them with that blackness upon them the next day; it appeared upon them then; there is some little rust upon them now.—Q. Did you, either on the day that this took place, or afterwards, speak to the prisoner about these yeast dumplings—what they were made with? A. I did the next day. I asked the prisoner how she came to introduce ingredients that had been so prejudicial to us? She replied, it was not in the dumplings, but it was in the milk that Sarah Peer brought in. I had several discourses with her that day upon this subject; during the whole of which she persisted that it was in the milk, as before described.—Q. What had that milk been? A. The sauce only. The prisoner made the dumplings with the refuse of the milk that had been left for breakfast.—Q. Did the prisoner tell you what use

had been made of the milk that had been fetched by Sarah Peer? A. She did not. I asked her if any person but herself had mingled or had any thing to do with the dumplings? She expressly said, no.

Cross-examined by Mr. Alley.—Q. In the conversation you had with the prisoner, did not you tell her that two months before you had missed the poison? A. I did not.—Q. You say it was her duty to light the fire in the office; did the clerks keep the door locked when they were not there? A. I do not know.

Roger Gadsden sworn.—Q. Do you remember seeing in a drawer in the office a paper with arsenic? A. I do, with "Arsenic, deadly poison," upon it. The last day I saw it was on the 7th of March. I missed it in a day or two after.—Q. Did you mention it in the office that you had missed it? A. I did, sir.—Q. On Tuesday, the 21st of March, did you between three and four go into the kitchen? A. I did, sir. I had dined at two.—Q. When you went into the kitchen, did you observe any thing there that came from the parlour table? A. I observed a plate there; in it was a dumpling and a half. I took a knife and fork up, and was going to cut it, to eat of it. The prisoner exclaimed, "Gadsden, do not eat that; it is cold and heavy; it will do you no good." I ate a piece about as big as a walnut, or bigger. There was a small quantity of sauce in the boat: I took a bit of bread and sopped it in it, and ate that. This might be twenty minutes after three.—Q. How soon after that time did any of the family become ill? A. I went into the office. Mr. Robert Turner came into the office about ten minutes after, and said he was very ill. They were all up-stairs in the parlour. Not the least alarm of anybody being ill then.—Q. How soon were you taken ill? A. About ten minutes after that; but not so ill as to vomit. In consequence of the distress of the family, I was sent off for Mr. Turner's mother. I was very sick going and coming back. I thought I should die.—Q. Had the prisoner made any yeast dumplings for you the night before? A. She had, for supper. I, and the other maid, and herself, partook of them; they were quite different from these dumplings in point of colour and weight, and very good. Q. [*By one of the jury.*] When the poison was missed, did you make any inquiry about it of the prisoner? A. I did not.

Cross-examined by Mr. Alley.—Q. Do you usually keep the door locked when you are out of the office? A. No.—Q. [*By Mr. Gurney.*] Who made the fire in the office? A. The prisoner. No person could go into the office until I did. Any person might go in and out in the day. At night it was locked.—Q. What was kept in that drawer in which the arsenic was kept? A. Paper.—Q. *Court.* Then your seeing her go to that drawer would not strike you as any thing extraordinary? A. No; I should not watch her to see what she did there.

Margaret Turner sworn.—Q. Upon this melancholy occasion you was sent for? A. I was.—Q. When you arrived you found your husband, son, and daughter extremely ill, did you not? A. I found them extremely ill.—Q. I believe, madam, you found the prisoner ill and vomiting? A. Very soon after I was there she was ill.—Q. Did you say any thing to her while you were there that day respecting the dumplings? A. I exclaimed to her, Oh, these devilish dumplings! supposing they had done the mischief. She said, "Not the dumplings, but the milk, madam." I asked her, "What milk?" She said, "The halfpenny worth of milk that Sally had fetched, to make the sauce?"—Q. Did she say who had made the sauce? A. My daughter. I said that cannot be, it could not be the sauce. She said, "Yes, Gadsden ate a very little bit of dumpling, not bigger than a nut, but licked up three-parts of a boat of sauce with a bit of bread."—Q. [*To Mrs. Turner, Jun.*] Was any sauce made with the milk that Sarah Peer fetched? A. It was. I mixed it, and left it for her to make.

Robert Gregson Turner sworn.—Q. Did you partake of the dumplings at dinner? A. Yes, I did.—Q. Did you eat any of the sauce? A. Not any

portion of that whatever.—Q. Were you taken ill, sir? A. Soon after dinner I was, sir. I first felt an inclination to be sick: I then felt a strong heat across my chest. I was extremely sick.—Q. Did it produce any swelling in you? A. I was exactly as my father and wife were, except stronger symptoms. I had eaten a dumpling and a half. I suffered more than any person.—Q. Were your symptoms, and that of the others, such as could be produced by poison? A. I should presume so; all taken in the same way, and pretty near the same time.

Sarah Peer sworn.—Q. You are a servant to Mrs. Turner? A. Yes.—Q. How long have you lived in the family? A. Nearly eleven months.—Q. Do you recollect the circumstance of warning being given to the prisoner some time after she came? A. I do, sir.—Q. Did you hear her say any thing after that respecting your mistress? A. I heard her say that she should not like Mr. or Mrs. Robert Turner any more.—Q. On the morning of the 21st of March did you go for any milk? A. Yes, after two o'clock; after I had dined.—Q. What had you eaten for dinner? A. Beef-steak pie. I had dined with the prisoner.—Q. Had you any concern whatever in making the dough for the dumplings? A. No, sir.—Q. Or the sauce? A. No sir. —Q. Were you in the kitchen when the dough was made? A. No, sir. I never meddled with it, or put any thing to it. I never was in the kitchen from the time I went up to make the beds, a quarter after eleven, until I came down again.—Q. You, I believe, had permission of your mistress to go out that afternoon? A. It was directly after I took up the dumplings, and then I went out directly. I came home at nine o'clock exactly. I ate none of the dumplings myself.—Q. In eating of the beaf-steak pie, had you partaken of any of the crust? A. Yes. I was not at all ill. I had eaten some dumplings she had made the night before. I never tasted any better. They were all made out of the same flour.—Q. Had you any difference with your mistress any time? A. No.

Cross-examined by Mr. Alley.—Q. Were not the coals delivered in the house that day? A. No.—Q. Then it is not true that you were set to watch the coals coming in? A. No.—Q. As the dumplings were taken out of the pot you went out? A. Yes.—Q. Had the prisoner and you been upon good terms? A. At times, sir.—Q. When was the last quarrel? A. Two or three days before she had taken something out of my drawer for a duster. I said, I did not like to lead that life, without she altered her temper.—Q. How long before that had you quarrelled with her? A. About a week, or a week and a half.—Q. What might that quarrel be about? A. I cannot say —Q. Was it the habit of your house for the servants to take their turns to go out of a Sunday? A. Yes.—Q. Who did you go to visit on Tuesday? A. My sister, at Hackney.—Q. When had you been to your sister's before that? A. About a month.—Q. Whose turn was it to go out before this Tuesday? A. Mine.—Q. The prisoner lived seventeeen weeks in your master's house. Did it happen that you ever went to visit your sister but on a Sunday? A. Never except on that day.—Q. I suppose you occasionally went into the office where these young men were? A. Very seldom.—Q You knew the waste paper was kept in the office? A. Yes, but mistress always kept it up-stairs in the dining-room for my use.—Q. You knew there was waste paper in the office? A. No, sir. I never touched any there. I did not know it for a certainty. There might be waste paper there, but I never touched it.—Q. Did you not know there was poison kept there? A. I never went to the drawer in the office, nor never knew there was poison kept there to kill rats and mice.—Q. [*Mr. Gurney.*] You went to see your sister, that lived at Hackney? Yes.—Q. And the reason you went away as soon as you took the dumplings up was to arrive there and see your sister in time? A. Yes.—Q. Were the yeast dumplings made the night before different or not? A. Very different, and good, and of a different shape.

Mr. Orlibar Turner.—Q. Did you keep this arsenic to poison the mice,

that infested the office? A. Yes, it was only to be used in the office to destroy the mice, and for no other purpose. This poison had not been used before for a year and a half.

William Thisselton sworn.—I am an officer of Hatton Garden office.—Q. Did you take the prisoner into custody? A. I did, on the 23d of March, the day before Good Friday.—Q. While she was sitting in the room in the office, did she say any thing respecting the poison or the yeast? A. I asked her whether she suspected the flour? She said she had made a beef-steak pie of the flour that she made the dumplings with; that she, and her fellow servants, and one of the apprentices, had dined off the pie. I then observed, if there was any thing bad in that flour, it must have hurt them as well as her. She said, she thought it was in the yeast; she saw a red settlement in the yeast after she had used it.

Joseph Penson sworn.—Q. You are a servant to Mr. Edmonds, the brewer in Gray's Inn Lane? A. Yes.—Q. Were you in the habit of leaving table beer at Mr. Turner's? A. Yes.—Q. Had the prisoner made any application to you respecting yeast? A. Yes, she asked me on Thursday. I told her, if I came that way on Saturday, I would bring her a bit; if not, on Monday. I brought the yeast on Monday morning. I took it out of the stilliards where the casks lay; out of the yeast for bakers.

Cross-examined by Mr. Alley.—Q. When you brought the yeast to the house, you gave it to the last witness, not to the prisoner? A. I gave it to the house-maid: she brought me a pot, into which I put the yeast.

Sarah Peer.—Q. What did you do with the yeast? A. I emptied it into a white basin. I told Eliza that the brewer had brought the yeast. She took the basin. I saw no more of it.

Mr. John Marshall sworn.—I am a surgeon. On the evening of Tuesday, the 21st of March, I was sent for to Mr. Turner's family. I got there about a quarter before nine o'clock. All the affliction attending the family were produced by arsenic. I have no doubt of it, by the symptoms. The prisoner was also ill, by the same I have no doubt.—Q. Did Mr. Orlibar Turner show you a dish the next morning? A. He did. I examined it. I washed it with a tea-kettle of warm water. I first stirred it and let it subside. I decanted it off. I found half a tea-spoonful of white powder. I washed it the second time. I decidedly found it to be arsenic.—Q. Will arsenic, cut with a knife, produce the appearance of blackness upon the knife? A. I have no doubt of it.—Q. Did you examine the remains of the yeast? A. Yes, there was not a grain of arsenic there; and I examined the flour tub, there was no arsenic there.

Mr. Gurney.—That is the case on the part of the prosecution.

Prisoner's defence.—I am truly innocent of the whole charge. I am innocent; indeed I am! I liked my place. I was very comfortable.

Gadsden behaved improperly to me; my mistress came, and saw me undressed: she said she did not like it. I said, "Ma'am, it is Gadsden that has taken liberty with me." The next morning I said, "I hope you do not think any thing of what passed last night." She was in a great passion, and said she would not put up with it. I was to go away directly. I did not look on Mrs. Turner, but the old lady, as my mistress. In the evening the old lady came to town. I said, "I am going away to-night." Mrs. Turner said, "Do not think any more about it: I don't." She asked Mrs. Robert Turner if she was willing for me to go? She said, "No, she thought no more about it."

As to my master saying I did not assist him, I was too ill. I had no concern with that drawer at all: when I wanted a piece of paper, I always asked for it.

The prisoner called five witnesses, who gave her the character of a good-natured and amiable disposition.

The recorder concluded his charge in words to this effect:—

"Gentlemen, you have now heard the evidence given on this trial, and the case lies in a very narrow compass. There are but two questions for your consideration, and these are, the fact of poison having been administered, in all, to four persons, and by what hand such poison was given. That these persons were poisoned, appears certain from the evidence of Mrs. Charlotte Turner, Orlibar Turner, Roger Gadsden the apprentice, and Robert Turner; for each of these persons ate of the dumplings, and were all more or less affected; that is, they were every one poisoned. That the poison was in the dough of which these dumplings were composed, has been fully proved, I think, by the testimony of the surgeon, who examined the remains of the dough left in the dish in which the dumplings had been mixed and divided; and he deposes that the powder which had subsided at the bottom of the dish was arsenic. That the arsenic was not in the flour, I think appears plain, from the circumstance that the crust of a pie had been made, that very morning, with some of the same flour of which the dumplings were made, and that the persons who dined off the pie felt no inconvenience whatever: that it was not in the yeast, nor in the milk has also been proved; neither could it be in the sauce, for two of the persons who were ill never touched a particle of the sauce, and yet were violently affected with retching and sickness. From all these circumstances it must follow the poisonous ingredient was in the dough alone; for, besides that the persons who partook of the dumplings at dinner were all more or less affected from what they had eaten, it was observed by one of the witnesses, that the dough retained the same shape it had when first put into the dish to rise, and that it appeared dark and was heavy, and in fact never did rise. The other question for your consideration is, by what hand the poison was administered; and although we have nothing before us but circumstantial evidence, yet it often happens that circumstances are more conclusive than the most positive testimony, and I will tell you why:—A fabrication may" * * * * * *
* * * * * * * * *
* * "The prisoner, when taxed with poisoning the dumplings, threw the blame first on the milk, next on the yeast, and then on the sauce; but it has been proved most satisfactorily, that none of these contained it, and that it was in the dumplings alone, which no person but the prisoner had made. Gentlemen, if poison had been given even to a dog, one would suppose that common humanity would have prompted us to assist it in its agonies: here is the case of a master and a mistress being both poisoned, and no assistance was offered. Gentlemen, I have now stated all the facts as they have arisen, and I leave the case in your hands, being fully persuaded, that whatever your verdict may be, you will conscientiously discharge your duty both to your God and to your country."

After the charge, the jury in a few minutes brought in a verdict of *Guilty;* and the miserable girl was carried from the bar, convulsed with agony, and uttering frightful screams.

The recorder passed sentence of death upon her.

On June 26 (says the *Annual Register*), the day appointed for the execution of Elizabeth Fenning, William Oldfield, and Abraham Adams, the public curiosity was strongly excited, and perhaps to a greater degree than on any similar event since the memorable execution of Haggerty, Holloway, &c. In the case of Fenning many had taken up an opinion that her guilt was not clearly established; for she had uniformly protested her innocence. The last interview between her and her parents took place about half-past one o'clock on Tuesday; to them, and to the last moment, she persisted in her innocence. About eight o'clock the sheriffs proceeded from Justice Hall along the subterraneous passage to the Press-yard.

Fenning was dressed in white, with laced boots, and a cap. Oldfield went up to her in the Press-yard, and enjoined her to prayer, and assured her that they should all be happy.

The sheriffs preceded the cavalcade to the steps of the scaffold, to which the unfortunate girl was first introduced. Just as the door was opened, the Reverend Mr. Cotton stopped her for a moment, to ask her if, in her last moments, she had any thing to communicate? She paused a moment, and said, "Before the just and Almighty God, and by the faith of the holy sacrament I have taken, I am innocent of the offence with which I am charged." This she spoke with much firmness of emphasis, and followed it by saying what all around her understood to be, "My innocence will be manifested in the course of the day." The last part of this sentence was spoken, however, so inaudibly, that it was not rightly understood, and the Reverend Mr. Cotton, being anxious to hear it again, put a question to get from her positive words; to which she answered, "I hope God will forgive me, and make manifest the transaction in the course of the day." She then mounted the platform with the same uniform firmness she had maintained throughout. A handkerchief was tied over her face, and she prayed fervently, but to the last moment declared her innocence. Oldfield came up next, with a firm step, and addressed a few words in prayer to the unhappy girl. About half-past eight o'clock the fatal signal was given. One emotion only was perceptible in Fenning. After hanging the usual hour, the bodies were cut down, and given over to their friends for interment.

The following paragraph relative to Elizabeth Fenning appeared in an evening paper:—

"We should deem ourselves wanting in justice, and a due respect for government, if we did not state that, in consequence of the many applications from the friends of this unhappy young woman, who this day suffered the sentence of the law, a meeting took place yesterday at Lord Sidmouth's office (his lordship is out of town), at which the lord chancellor, the recorder, and Mr. Beckett were present. A full and minute investigation of the case, we understand, took place, and of all that had been urged in her favour by private individuals; but the result was a decided conviction that nothing had occurred which could justify an interruption of the due course of justice. So anxious was the lord chancellor in particular to satisfy his own mind, and put a stop to all doubts on the part of the people at large, that another meeting was held by the same parties last night, when they came to the same determination, and in consequence the unfortunate culprit suffered the penalty of the law."

Her funeral took place on the 31st. It began to move from the house of her father in Eagle-street, Red Lion Square, about half-past three o'clock; preceded by about a dozen peace officers, and these were followed by nearly thirty more; next came the undertaker, immediately followed by the body of the deceased. The pall was supported by six young females, attired in white: then followed eight persons, male and female, as chief mourners, led by the parents. These were succeeded by several hundreds of persons, two by two, and the whole was closed by a posse of peace officers. Many thousands accompanied the procession, and the windows, and even tops of the houses, as it passed, were thronged with spectators. The whole proceeded in a regular manner, until it reached the burying-ground of St. George the Martyr. The number of persons assembled in and about the church-yard was estimated at ten thousand.

WILLIAM JONES,

FOR MURDER.

William Jones, a young man, twenty-two years of age, was arraigned upon an indictment, for the wilful murder of Betty Jeffs, widow; and also upon a second indictment charging him with having stolen a coat, the property of George Holding.

He pleaded guilty to the latter charge, and not guilty to the former.

Mr. Adolphus stated the case to the jury:—A gentleman, of the name of Lett, was the proprietor of a house, No. 11 Montagu-place, Bedford-square, which he had left in the care of the deceased, who was a confidential servant. At seven o'clock on the night of the 31st of December, this poor woman was seen alive for the last time, standing on the steps of the door. On the following morning, when some tradesmen, who were employed about the house, arrived, they pulled the bell as usual, but no person answered. Being unable to obtain admission, they became alarmed, and, at length, by getting over the area railing, they effected an entrance into the house through a window. They immediately commenced a search, and, upon going into the servants' hall, the woman was seen lying dead on the floor, her throat cut, and her body strained as if she had been struggling with her murderer. There was no instrument of death near her, so that she could not have terminated her own existence. Her throat was cut through the windpipe, and there were several marks of violence upon her body. There was a mark on her face, as if it had been forcibly pressed down by a hand, while the act was committing. There was also the mark of a shoe on her body, as if a foot had been pressed upon her when dying; and there were other appearances about her, from which the medical gentlemen, who had examined the body, would tell them that it was impossible she could have done the deed herself. There was a mark of blood, as if from a finger, on one of the posts; one of the deceased's pockets was turned inside out, the other seemed to have been overlooked, and had a sovereign in it. There was also the mark of a finger on her thigh. The drawers throughout the house had been ransacked. A bundle of linen was found, stained with blood. Two silver spoons and a watch, which had been in her possession, were missing, and had never since been found. But the most important circumstance in the case was this, that near the body was found the lower part of a razor-case. This razor-case, it would be proved, was not the property of Mr. Lett, and of course not that of the woman: and this circumstance led to inquiry. The deceased was a widow, and had been married to two husbands. She had a son by her first husband, who was a manufacturer of artificial feathers, residing in Cursitor-street. The prisoner had been living in the neighbourhood of the Cobourg theatre, with a woman named Mary Parker, but whom he (Mr. Adolphus) would, for convenience, call Charlotte, as that was the name by which the witnesses were accustomed to hear her spoken of. The prisoner passed by the name of Edwards, and lived with this woman in a state of extreme poverty. He, a day or two before the 1st of January, had borrowed a razor of a Mrs. Williams, who had four razors, which had belonged to her husband. Two of these were in one case; another had no case; and a fourth was in a single case. It was the one in the single case which the prisoner borrowed. As soon as this woman saw the case found near the deceased, she recognised it at once as that which she had lent to the prisoner. Further, the razor, which had been in that case, was found in the prisoner's possession, and no case belonging to it could be found, except the one in question. It would also be shown, that, shortly before the murder, the prisoner was in great poverty, had no money, and lay in bed, only a morning or two previously,

in want of a sixpence to procure a breakfast. In a day or two after, he was seen with money in his possession, displaying a crown-piece, treating a person to gin, and taking his woman to the Olympic theatre. The prisoner's father having died recently, Charlotte observed him one morning in grief, and having learned the cause, she asked him who had informed him of it. He told her she did not know the person. This would be important, because it was only through the deceased, who had mentioned it to her son, that he could have learnt it. At nine o'clock on the night of the murder, the deceased called the pot-boy, who was going round with beer, and took a pint from him, which was double her usual quantity, and looked as if she had somebody with her to share it. It would be further shown, that a washerwoman, who had been taking linen from Mr. Sergeant Bosanquet's house, in a cart, heard a scream at about half-past nine o'clock, which was also heard by the man who drove the cart. The horse was then just put in motion, and they took no further notice of it until they were apprized of the murder by the public prints, when they immediately recollected the circumstance. The fact, however, would be shaken as to the time, by the watchman, who said he saw Mrs. Jeffs at the door, talking to a man and woman, at half-past ten o'clock on that night. But the time was not very material. It would be for the prisoner to account for his time, the mode in which it was passed after seven o'clock, when he and Charlotte went out together; she going to Fleet-street, to pursue her nightly avocation, and parting from him at the corner of Bride-lane; from which she saw no more of him until twelve o'clock.

The following were the principal witnesses :—

Paul Dent.—On the 1st of January, I was directed to go to the house of Mr. Lett, in Montagu-place. I rung the bell, but could get no admittance, and then I and a man named Bonnicke went round through the next house, No. 12, to the back area of No. 11. We got in through the window, and opened the door to Hawkins, Judge Holroyd's butler. We then examined the rooms up-stairs, and found nobody. The bed had not been used. As it was getting dark, we procured a light from the next house, and, on going into the servants' hall, found the body of the deceased. The head was next the window, about four yards from it. The body was lying on the right side. The right arm was under the body. The left hand was clinched. The feet were placed straight on the floor, as if she had been standing on them, with her knees up. Her throat was cut, and there was a great quantity of blood on the floor, all on one particular spot. I don't think the body was ever moved after the throat had been cut. I observed a razor-case and a pair of scissors on the floor near her, on the right side. The left pocket was drawn outside her clothes.

Cross-examined.—I observed a little work-box on the table with thread and cotton in it. There were two chairs, one on each side of the table, as if people had been sitting in them. I think I had gone into eight or nine rooms, including the drawing-rooms. I searched the rooms a second time, about an hour afterwards, with the officers. To the best of my knowledge there was something displaced in every one of them. The drawers seemed to have been rifled over in the front room. The things in the wardrobe were chiefly gloves and gaiters. In the cupboard, between the front and back bed-room, there were two or three boxes with feathers, and some of the feathers had been taken out. In all the bed-rooms the things had been disturbed and turned over.

Alexander Bonnicke and Thomas B. Hawkins, servant to Mr. Justice Holroyd, gave a similar description of the state of the house.

Samuel Furzeman, one of the constables of St. Giles'.—He was sent for, on the 1st of January, to the house, No. 11 Montagu-place. Got there a little after six. Up two pair of stairs in a drawer, witness found a glove with marks of blood, which appeared to be fresh upon it. In another drawer was part of a newspaper also stained with fresh blood. In the two-pair back

room he found a bundle. Did not observe blood upon it that night. He locked up the rooms and kept the keys, until the coroner's jury sat upon the body, and then made fresh observations. Saw blood on several of the papers which were about the feathers, and also on some linen. After the inquest, the keys were left in the possession of Mr. Robinson. In consequence of information witness received, he went to 35 Mitre-street, on Tuesday the 8th, to look for a person of the name of Jones. Gardiner and Salmon accompanied him, and, in the course of the search, they stated the purpose for which they came. In the back room he saw Salmon take up a shirt collar, which was now produced. Witness found a razor in the table-drawer, which he now produced. It had been in the same state ever since. It had one or two small notches, and the edge appeared to be turned. There was a stain upon it; could not say by what it was occasioned; found a new umbrella there; could find no sheath for the razor; found the prisoner on the 13th in the city compter, where he passed by the name of Edwards. When he was brought out, witness laid hold of his left hand, and asked him what his name was? He said Edwards. Witness said, "No, it is Jones." He first said, "No, it is not;" and then said, "Yes. it is." Witness looked at his left thumb. He had a cut on it near the nail. Asked how long it had been done? He said six weeks. Witness said it appeared to him to be a fresh cut, and asked him how he had done it. He said in cutting wood with a knife. He had a blue frock coat on. He took it off, and said, "You see what a situation I am in; I have not a bit of shirt to my back." Witness asked him what he had done with it? He said he had pawned it at Mr. Turner's, Bridges-street, Strand, on the Saturday preceding; which was the fact. His coat appeared to have been sponged very recently in the sleeves, outside and inside, between the hand and the elbow. It was also sponged in the front. He said it had been sponged by the person who had lent it to him. Witness thought he said it was Mrs. Williams' son who had sponged it. On Monday, the 14th, they took him before the magistrates at Bow-street; whence he was taken to the house of correction. On Monday, the 28th, witness went to the house of correction and searched his waistcoat, and found a stain on the right-hand pocket, but could not say by what it had been occasioned. Witness had had the waistcoat in his possession ever since.

The boxes of feathers, the umbrella, and waistcoat were here produced, and the witness was directed to point out to the court where he saw the marks of blood upon the papers containing the feathers.

Cross-examined.—A person was examined on this charge previous to my search after the prisoner. That person was Mr. Knight, son of the deceased. He was discharged. I examined the inside of the handle of the razor. The spot upon the blade looked as if it had been wiped. The handle appears to have been washed. I did not suspect the prisoner until three or four days after the murder. I have acted from that time to the present hour under a strong impression which might have influenced my judgment upon what I saw. With reference to the cut, I am of opinion that it was done much more recently than the prisoner stated. Upon opening the wound, I found it fresh and red. When at the compter, I did not make any inquiry respecting the sponging of the coat. It was my opinion that the waistcoat had been recently washed, but I made no remark at the time. I took it from the prisoner. I cannot say whether the trousers of the prisoner had been sponged also, but some parts of them appeared cleaner than others. I then asked Jones where he had been living. He answered, without hesitation, that he had been living with a girl named Charlotte Berry, in Mitre-street. The prisoner acknowledged also that he had been previously living in Windmill-street, and in Wootton-street, all of which I found to be true. I knew that the prisoner had gone bv the name of Edwards, and that he had a reason for so doing.

Mr. Samuel Plumb, surgeon.—On the evening of the 1st of January, I was sent for to Montagu-place. The deceased was lying on her back. The windpipe was divided; and the wound was not such as the deceased could have inflicted on herself. Her eyes were open, her hands clinched, and there was a strong expression of horror in the countenance. I saw the marks of knuckles upon the left collar-bone, and on the left cheek I saw what appeared to me the mark of dirt, occasioned, as I judge, from the sole of a dirty shoe. I saw two slight marks of blood upon her right thigh, and also a single spot of blood upon her left thigh. I do not think that those marks of blood were occasioned by the wounds in the throat.

By Mr. Justice Bayley.—I think that the division of the cartilage would have rendered the edge of a razor unfit for use. I saw the prisoner at Bow-street, and, at the second examination, I examined his finger, but I could not assert at that distance of time when the cut was inflicted. I think I could judge of a wound any time within three or four weeks. I examined the backs of the hands of the deceased, and found blood upon them both. The marks appeared to be of another bloody hand.

James George Robinson.—I am not aware that any property is missing belonging to Mr. Lett. There was considerable property belonging to Mr. Lett upon the premises which might have been carried away.

George Gardiner, pot-boy of the Gower Arms, Gower-street.—I knew the deceased Mrs. Jeffs. Saw her last about nine o'clock on the night of the 31st of December, when I went with a pint of beer to her. She was talking to a man with a white apron, who was standing upon the mat in the hall. I did not see the face of the man whom I saw with the deceased. He had on a blue coat. The man was of a middle size.

Mr. Justice Bayley.—Look at the prisoner, and say if he resembled that man.

The witness could not say that the prisoner was the man. The coat, which the man had on, was such as gentlemen wear, not such as grooms wear.

Elizabeth Evans, laundress, examined.—I was at No. 12 Montagu-place, on the night of the 31st of December, about half-past nine o'clock. Heard a loud scream, proceeding, as I should think, from No. 11. The man who was with me thought the cry proceeded from a boy, and I thought it came from a bad woman.

Wm. Cracknell was in the cart with the last witness, when the scream was heard. He looked round, and could see no one about.

James Harmah, a watchman.—I was calling half-past ten o'clock on the night of the 31st of December, when I saw a man and woman talking to Mrs. Jeffs outside the door. Mrs. Jeffs had the door halfway open in her right hand, and a candlestick in her left. The man and woman came down the steps. They bid Mrs. Jeffs good-night, and, when I had walked a little way, I saw Mrs. Jeffs shut the door. I am the regular watchman for that beat, but I was not on duty the first night of the new year. The man had on a blue coat; I did not observe that he had any apron on.

John Knight.—Knew the prisoner at the bar. His name is William Jones. The prisoner was on intimate terms with my family. He was in the habit of coming to my house, when my deceased mother used to visit me. The prisoner called with me at Montagu-place, and saw my mother in July last. I had seen my mother on December 30th, in good health and spirits.

Elizabeth Williams.—She lived in Valentine-row, near the Cobourg theatre. Charlotte Edwards lodged with her, as also did the prisoner Jones. He had passed under the name of Edwards, and lived with Charlotte as his wife from the 29th of October, to the 29th of December. The witness has two children, the eldest of whom is a girl, aged 14. When the prisoner lived in Mitre-street, she supplied him with the loan of a razor, by her little girl. She had four razors, a tortoise-shell case, and a black pair. For the black ones there was no case, and Jones got a tortoise-shell-handled razor in

the case. [Here the case and the razor with which the murder was perpetrated were shown, but the witness could identify neither.] They were like those which she had lent, but she could not undertake to swear that they were the same. She saw Jones on the 30th December, between ten and eleven o'clock. He was in company with Charlotte, and expressed his wish that she would lend him her razor, together with the loan of a silk handkerchief. Charlotte requested that the child might be sent to borrow a shilling, or even sixpence, as she wanted both fire and food. The girl was allowed to go, but returned unsuccessful. She saw the prisoner subsequently, when he returned home in Charlotte's company. He remained but half an hour, and went out for the purpose, as he alleged, of going to a friend in the city. He was not in the habit of going abroad at that hour, but used to send occasionally to a person named Sells for the loan of a drab coat. She now lent him that belonging to her son; its colour was dark blue. [The coat which the prisoner had worn was produced, and identified by the witness as that which she lent him.] She saw Jones and Charlotte again on the 31st. There was no conversation about money on that occasion. On the morning of New-year's day, she was again in their company at Mitre-street. It was about eleven o'clock, and the prisoner was dressing himself to go out. He intended, he said, to borrow money from a friend. On Charlotte's inquiring where the money was to be procured, he replied that he had told her that before. On January 2d, she saw the prisoner in bed, when he informed her that he had left 2*s*. for her. Charlotte came in, and said that she could not get a newspaper. He asked her (the witness) whether she would be able to procure him a newspaper. She made inquiry if a Sunday paper would answer his purpose; on which they replied that they would want a paper of that morning. After this they all breakfasted; she took her breakfast with them on their particular invitation. Charlotte and the prisoner had some angry words, and she breakfasted apart. He told them that he had received intelligence of the death of his father from a friend. Jones sat without his coat, which lay on a chair in the room, and fell during breakfast with a peculiar sound, as if there was silver in the pockets. The accident appeared to excite his attention. The prisoner then sent out money for a quartern and a half of gin, which the witness and he partook of. Charlotte declined drinking any. On Sunday, she (the witness) went again to Jones' lodgings, and mentioned that she understood the officers of Bow-street were in search of a person of the name of Jones, on a charge of murder (of his real name she had been previously apprized). Charlotte answered that it could not be he, as he had committed no murder. He said it was probable his friends were in search of him, and had sent the officers to find him out. Charlotte expressed her fear that he would be obliged to go home in consequence of this information. The next subject of conversation was the coat, which Charlotte said it would be advisable to have washed. Jones observed, as he was going out, that he would require to be cautious in returning, lest any one should dog him home, and requested that she (the deponent) would not say any thing on the matter. She promised to comply with his request, and did not see him any more until in custody.

Mary Anne Williams.—Was fourteen years of age, and had been sent to Jones by her mother with a razor-case on the Sunday before New-year's day. Charlotte was in the room the evening on which she brought it. She (Charlotte) was up, but the prisoner was in bed. [Here the case and the razor were again produced, but the child was unable to identify either. On this subject she gave precisely the same evidence as her mother.] They were like those she saw before, although she could not be certain that they were the articles lent.

Mary Parker, the person who had assumed the name of Charlotte Berry, was then called. After some time, she made her appearance, but in a state of such agitation as to be utterly incapable of giving her testimony, until

restoratives were used. She seemed greatly affected on seeing the prisoner, and fainted when placed in the witness-box. After she had been in some degree enabled to assume composure, Mr. Adolphus commenced her examination. She was aged twenty-one years, and had passed under the name of Charlotte Berry for the last two years, the period at which she left her father's house. She was acquainted with the prisoner for five months previous to his being taken into custody on the present charge, and occupied the same lodgings with him, at the house of Mrs. Williams, for two months. She had since changed her abode. On the evening of December 31, she left home in Jones' company, and walked over Blackfriar's-bridge with him. They parted in Fleet-street, at the end of Bride-lane. At about half-past twelve o'clock that night, they again met in the same neighbourhood, near Poppin's-court. They were in the habit of meeting nightly in Fleet-street, at twelve or one o'clock. When she saw Jones, he was coming from the direction of the Strand. When they had parted, she was destitute of money, and she believed the prisoner had not any either. He was now in possession of money, but did not mention where he had obtained it. He said he met a friend, from whom it was borrowed. He had a few shillings, with which he accompanied her and her companion (another woman of the town) into a wine-vault, in Poppin's-court. They drank sixpenny worth of gin, and returned home by one o'clock. In the morning Jones went out at eleven, and came back again at three in the afternoon. On this occasion he brought more money, which, he said, had been borrowed. He gave her five shillings, three of which she expended in redeeming some clothes formerly pledged, and with the residue she purchased necessaries. While they were at breakfast the next morning, he said he cut his thumb, when in the act of cutting bread and butter. In the morning he and she went out and had some gin, for which Jones changed a five-shilling piece; after which they went to the Olympic theatre. The day after, continued the witness, I was washing, but I do not think there was any thing remarkable on his clothes, unless a small stain on his shirt sleeve. He said it was occasioned by some pickle cabbage liquor. In the morning he threw himself on the bed and began to cry. He told me he was informed that his father was dead. During this time Mrs. Williams was in the habit of calling to see us in Mitre-street. On the morning of the 2d of January, he directed me to get him a newspaper. I tried, but could not get one. In the evening Mrs. Williams came, and told us that the Bow-street officers were after Mr. Jones. After Mrs. Williams went out, I went down-stairs and requested Mrs. Stapleton to watch for us while we went out. She did so. I went out first, and Mr. Jones went out soon after. We met near the Surry theatre, and walked together some time, and slept in the city. This was on the 6th of January. We slept together the two following nights, and the third night we had no bed, and walked the streets all night. [Here the witness became so dreadfully affected that it was with difficulty she was prevented from fainting.] About seven o'clock the following Saturday, I heard that Jones was taken into custody. Mrs. Williams lent some things to Jones; she lent him a razor. I did not notice a case with it. I was shown a razor-case at Bow-street, and think it was the one I saw in Wootton-street. I was likewise shown a razor, and believe it to be the one now produced. The razor-case I recollect by its being freckled a little, and by this mark (pointing to a mark). We had no money on the 31st of December to purchase us the necessaries of life.

Mr. Plumb recalled, and examined by Mr. Justice Bayley.—The deceased could not have committed suicide, from the nature of the wounds.

Mr. Justice Bayley then rose and addressed the prisoner, observing, that the time was now come, when, if he had any observations to make, he might do so.

The prisoner bowed respectfully, and unfolding a paper, in a slow unbroken voice read nearly as follows:—

"My lord, and gentlemen of the jury,—I feel confident of your attention and favourable consideration of the few words I have now to address to you. If now for the first time you learned the charge against me, my situation would be one sufficiently alarming; but how much more frightful is it in consequence of the spreading, throughout the country, of details which have excited universal horror. I will mention only one instance of the misrepresentation with which my name has been associated. At the very time when the bill against me was before the grand jury, a man was engaged near the Sessions-house blowing a horn, and circulating the report that I had made a full confession of this murder, and had committed suicide in the house of correction. I might complain also of the way in which every little circumstance has been turned to my prejudice, but that I am willing to believe that a desire for justice was a part of the actuating motive. From the first moment when this charge was brought against me, I have denied it. Would that I could with equal truth declare myself guiltless of all other offence, but I feel that I am obliged to make my own misconduct a part of my defence. Whatever may have been my errors, however, the slightest thought of murder never crossed my mind. I owe it to an aged mother and other friends, whose minds have already bled too much for me, to declare that I am guiltless of this charge. Thrown amidst the temptations of the town at an early age, my life was wild and dissolute; dissipation led to crime; and at the time when the offence with which I am now charged was committed, I knew that a charge of forgery had been made against me, and thus it was that I fled at the approach of the officers. With regard to my examination before the magistrates, I beg to say that many questions were put to me, that you, who value the principles of English law and justice, must condemn. I admit, however, that I did make a statement before the magistrate, but it is not true; and thus, in order to avoid suspicion of one crime, I was obliged to confess to others. One of the presumptions against me is, that I was intimately acquainted with the unfortunate Mrs. Jeffs. I solemnly declare, however, that I saw Mrs. Jeffs but three times in my life. The first time I saw her was at the house of her son, Mr. Knight, in Anderson's-place, Cornwall-road. The second time was at his house in Cursitor-street, when she told me she invited Mr. Knight's daughter and my sister to take tea with her, and she asked me to accompany them. The third time I saw Mrs. Jeffs was when I accompanied Knight's son and his sister to the house in Montagu-place. We saw Mrs. Jeffs upon that occasion but for a short time. I never saw Mrs. Jeffs after the month of July last. Mrs. Jeffs, Knight, and I went together to Montagu-place, when he went into the house, I believe, to ask for money. I saw her upon that occasion, which was some time in last July, and I never saw her after. I took the name of Edwards to avoid detection, knowing that I had unfortunately rendered myself liable to the law, in consequence of what I had done at Mr. Duncomb's. Under such circumstances, I should be more than insane to have gone to Montagu-place, where most likely I should have been refused admittance. As to my dress, and the circumstances of suspicion attached to the coat, I am enabled on the clearest proofs to answer that part of the charge. Mrs. Williams has a son employed by a surgeon who resides in Blackfriars-road. That gentleman gave him a coat which was damaged, and the stains upon which were said to be occasioned by blood. In my distress I borrowed this coat, and unfortunately for me, the very worst construction was put upon a circumstance purely accidental. In the same way the blood upon the shirt collar was made use of as a proof against me, and the waistcoat was said also to be stained with blood. As to the stain upon the collar, what becomes of it when it is proved in evidence that I cut my thumb. So little did the circumstance of cutting my thumb occupy my

thoughts, that, when I was questioned about it by the officers, I totally forgot how or when I did it, and returned an answer at random. With respect to the razor-sheath, I beg leave, my lord and gentlemen, to draw your particular attention. I trust you will examine this part of the evidence carefully, and say if any one could swear to a razor-sheath, of which there are hundreds of a similar make and description sold daily in the metropolis. It is a common razor-sheath, and has nothing whatever about it to mark it as peculiar. With respect to the edge of it being notched, I can answer it. One day, when I was alone in Mitre-street, quite unconscious of what I did, I cut the razor-sheath bit by bit with the razor, and flung them into the fire. I am most anxious to satisfy you as to where I was on the evening of the 31st of December. Mary Parker and I left home that night, and proceeded together to Blackfriars-bridge. I went to the Adelphi theatre in the Strand, and remained there until the performances were over. I then joined Charlotte in Poppin's-court, about twelve o'clock. The bells of St. Bride's were then ringing what they call the New-year in. It has been said, if I was at the theatre, I could prove the fact, but it was impossible for me to do so, situated as I then was. It is not pretended that I am a hardened murderer; and if not, is it likely I could be cheerful as usual, and have supported a falsehood by bringing Mary Parker to the theatre? My possession of money, soon after the commission of the offence of which I am accused, is another charge against me; but let me remind you, gentlemen, that a person living the disgraceful and irregular way in which I lived, may be one moment without a farthing, and the next possessed of money. And here, gentlemen, I must do justice to the unhappy woman who lived with me, by declaring that she was totally unacquainted with many of my offences, and that I carefully concealed them from her. There is one point I cannot pass unnoticed, I mean the letters said to be written by me in prison. The first letter I wrote, the second I know nothing about, and the third was written under the impression that I knew a person named Morris, at the White Lion, in Wych-street. As to the second letter, I only entreat that the manner in which it was obtained may be clearly stated. All I can say is, that I deny the letter. Gentlemen, without another remark, I leave my fate in your hands, under the impression that you will throw aside any prejudice that may have been excited in your minds against me. The man who is dishonest may not be cruel. The thief may shrink from the crime of murder, and I can with truth declare that this has always been the state of my mind. No propensity to cruelty, or desire to commit violence on any human being, ever formed a part of the many evil inclinations by which I have been influenced. I do solemnly declare before God, that I am innocent of the crime of which I am now accused."

Several witnesses deposed that the prisoner bore a humane character.

After Mr. Justice Bayley had summed up the evidence, in a charge of two hours, the jury retired for about twenty minutes, and brought in a verdict of—*Not Guilty*.

ABRAHAM THORNTON,

FOR THE MURDER OF MARY ASHFORD—TRIED AT WARWICK, AUGUST, 1817.

This was as atrocious a murder as ever was perpetrated, and it excited the attention of the world in an extraordinary manner, owing to its having taken place without retribution, and to the measures which were offensively and defensively adopted to inflict and escape legal punishment.

The evidence, like that in most cases of secret murder, was circumstantial,

but in this case the circumstances were so corroborative and conclusive, and affected only by one piece of evidence (a vague estimate of time, and an alleged impracticability of going a certain distance in a time undetermined and assumed), so that all England was struck with horror at the turn of the proceedings at Warwick.

It seems that about four o'clock the deceased was seen within a mile of it, walking towards the pit, where her violated body was found at half-past six, and that three or four persons swore that they saw the accused between four and five o'clock at a spot which was one mile and a half from the said pit, across the fields, or two miles and a furlong by the road. The judge, Holroyd, inferred therefore a clear proof of *alibi*, and hence the jury found a verdict of not guilty.

The clamour on the subject was so great that Mr. Edward Holroyd, the son of the judge, published the trial, accompanied by observations and an exact plan. From this report we have copied the substance of the evidence. Thornton was the son of a blacksmith, and a young man of loose habits, and his father, a respectable man, acted also as steward to one or more non-resident land-owners, and among others to the farm rented by Holden. Mary Ashford was a smart and pretty country girl, of twenty, living as servant with her uncle. After the verdict, Thornton returned to his father's; but his former companions avoided him, and on going once or twice to Birmingham, crowds assembled and insulted him. After the appeal, as public feeling allowed him no peace, he went under a feigned name to America, where he soon died, and in the mean time his father died of broken spirits. On one side, the enormous legal expenses were borne by public subscription, and the spirited conduct of Mr. Bedford, a Birmingham solicitor, and nephew of the magistrate, and on the other by the father and family of Thornton.

Mr. Clarke opened the case for the prosecution, and first called Hannah Cox, who stated as follows:

I was acquainted with Mary Ashford; she lived at Coleman's at Langley, about three miles from Erdington; Coleman was her uncle; Coleman, her grandfather, lives at the top of Bell-lane; she came about ten in the morning of the 26th May, Monday, going to Birmingham market; she had a bundle with her, containing a clean frock and white spencer, and a pair of white stockings; she was to come back when she came from Birmingham to go to a dance at Tyburn; she returned about six and changed her dress; I fetched a new pair of shoes for her; she left the clothes taken off in a bundle; we went together to the dance; Mary Ashford was in the dancing room; I left the house between eleven and twelve o'clock; I went out first and waited; Mary Ashford was at the room door; Mary Ashford came out afterwards and the prisoner with her; we went towards home; the prisoner and Mary Ashford went on first, and I waited a little; Carter was with me; I walked with the prisoner and Mary Ashford to a place between Reeves's and the Old Cuckoo, near to where the road separated to Erdington; I walked on first, and saw no more of them; I took the road to the left; I went to Mrs. Butler's, and went to bed; in the morning, twenty minutes before five by my mother's clock (it was too fast), Mary Ashford knocked me up; she came in in the same dress as overnight; her dress was not disordered, nor she; she appeared very calm, and in very good spirits; she changed her dress, put on her pink frock that she had in the morning, her scarlet spencer, and black stockings, but retained her shoes; she lapped her boots up in her pocket handkerchief, and put the rest of her dress and some marketing things in a napkin; she might be a quarter of an hour; she left me on that; I saw nothing more of her.

On her cross-examination, she said—Her father lives at Erdington, a gardener; I had seen something of Thornton between two and three times at her uncle's; no appearance of female complaint when she went to the ball;

I had no idea of any then; her grandfather and father lived in Erdington; I got up; I did not take any particular notice of her dress; she said she had slept at her grandfather's, about a quarter or half a mile from where I parted with her; I asked her how long Thornton had stopped with her; she said a good bit; I asked her, and she said he was gone home.

I was present part of the time; she put on her stockings; stood up; did nothing more than change her dress, and go away; I did not observe the stocking she pulled off, nor her shoes; I cannot say whether her frock was stained then or not.

Benjamin Carter.—I was at Tyburn, in the room where the dancing was; saw the prisoner and the deceased there, and they were dancing together; in about a quarter of an hour after she came away, and the prisoner with her; they went on the road to Erdington together; I went up with Hannah Cox part of the same road; we went on till we overtook them; I went about twenty yards, and came back towards Tyburn; they were going on the road leading to Freeman's; I came back and overtook them between Reeve's and Potter's; Hannah Cox was not then with them; I came with them to Potter's house, and went home.

John Hompidge.—On Tuesday, 27th May, I was at Reynold's at Penn's mill; I was sitting in his house when I heard somebody talking, about two in the morning;* I saw nobody immediately; first time I saw a man and a woman; they were in the ford-rift (footpath) at a stile which leads into Bell-lane; when I got up to the stile, the prisoner was the man; I bid him good morning; I did not know who the woman was; I did not see her face, she held her head down so; they stood against the stile; I got within about a hundred yards of them before I saw them; she appeared not to wish to be known.

Thomas Aspre.—On the morning of the 27th of May I was on the road; I was crossing Bell-lane, leaving that lane on the right, and Erdington on the left by Greensall's; a horse pit in the lane, against which I saw Mary Ashford; she was *going towards Erdington*, walking very fast, *about half-past three;* she was alone; I looked up Bell-lane in the direction in which she was coming, I saw no other person.

Joseph Dawson.—I got up I think about four; saw Mary Ashford coming from *towards Erdington*, I was going towards it; she was near Holmes.

John Kesterton.—I live at Greensall's; I put the horses to the wagon at four; and went straight off for Birmingham, through the village of Erdington; I had passed Mrs. Butler's a little way; I turned to look back; saw Mary Ashford coming out of widow Butler's entry; I smacked my whip; she turned and looked towards me; I saw her plain; a quarter past *four;* she turned up Bell-lane; she seemed to be going in a hurry; I knew the prisoner by sight hardly; I saw him not, nor any but her.

Joseph Dawson.—I knew the deceased; saw her on Tuesday morning, 27th, at a quarter past *four*, as near as I can guess; I spoke to her; she asked me how I did, and passed on; she had on a straw bonnet and scarlet spencer; a bundle in her left hand; this was near Holmes's; she was going towards Bell-lane, from Mrs. Butler's; she was walking very fast; I saw no man about then.

Thomas Broadhurst.—Before I came to Bell-lane I saw Mary Ashford crossing the turnpike road; she was going from Erdington towards Penn's; she had a bundle, and was going fast; when I got home our clock wanted twenty minutes to five; our clock was a quarter too fast.

George Jackson.—I live in Hurst-street, Birmingham; I was going beyond Penn's Mills to work; I came by the workhouse of Erdington; I turned out of Bell lane into the footpath leading to Penn's; going along I

* By the report of others there was much contention for a considerable time in the path, between two and three in the morning.

came to a pit; I observed when I came near a bonnet, a pair of shoes, and a bundle, close by the top of the slope that goes into the pit; I saw one shoe was all blood; then I went towards Penn's Mills to get assistance; going down from the pit, about thirty yards it might be from it, I observed blood, a triangle, zig-zag, for about two yards; I went a little further, and saw a lake of blood by the side of a bush; I saw more to the left on some grass.

William Lavell.—I went up to the pit in consequence of what I heard from Jackson; footpath through the harrowed field; went along it going from the pit towards Erdington; observed first the footsteps of a man to my right hand; a dry pit at the corner of that field to the right; the footsteps were turning up to that corner; I went further up along the footpath towards Erdington; in about eight yards distance I discovered footsteps of a woman to my right; I traced the footsteps of both from those two spots; they got together in about fifteen yards, bearing to the hedge; they were both of them running by the sinking in of the ground and the stride; traced the footsteps of both the man and woman running together to the corner where the dry pit was; there I observed them doubling backwards and forwards, dodging about.

I traced them on to the grass at the corner of the piece by the dry pit, at the right hand corner; then the footsteps went towards a water pit in the harrowed field; I traced them to that pit on the harrowed ground; they appeared there to be walking; sometimes the woman's feet off, and sometimes on; in one place both off together, and on the grass; traced them down to that water pit; I could trace them no further, the woman's, but the man's I did to the hard road; she was on the grass nearest the pit; appeared walking on together.

I then traced the footsteps of a man the contrary way from the footpath; appeared running on the harrowed ground; no other footsteps that way; I traced them three-parts across the field towards the dry pit; then they turned to the left as I was pursuing the track; then I traced across the footpath and to the gate at the far corner; cross the footpath in the middle of the field, footsteps of a man running quite to the cross corner; no woman's steps; I could trace them no further than to that gate; it was clover; the footsteps went along no regular road, but it would make a shorter cut.

I went with Joseph Bird with the prisoner's shoes first; took both; they were right and left shoes; and the man's footsteps appeared to be made with right and left shoes; we tried the shoes on the footsteps; we tried them with a dozen footsteps, I suppose, in different parts; those shoes exactly fitted those footsteps on both sides the footway; I have no doubt the footsteps were made by those shoes; we tried them with the footsteps that turned off the footpath, about eight yards from the woman's, and where they were running together, and where the doubling was; in all those parts they agreed; some nails were out of the side of one shoe; we observed two nails; footstep over a bit of a short stick, which threw the foot up; saw mark of two nails; we tried the shoe with that footstep; two prints of the nails in the trace; small nails in the shoe; we could hardly trace them.

Went with Mary Ashford's shoe afterwards with Bird; compared it with the woman's footsteps that turned off the path to the right; and where they appeared running, and where the doubling was, and where walking; the shoes agreed with the footsteps; no doubt the footsteps were made by those shoes; I saw one footstep, appeared to be the foot of a man near the slope; near the edge; none down the slope; it appeared to be the left foot sideways; inclined towards the slope; I did not compare the shoe with that; I saw the bundle by the side of the pit; a pair of shoes and a bonnet; those shoes I compared with the woman's footsteps; where the blood was, was about forty yards off the pit; I saw some nearer, about fourteen yards nearer the pit; I traced it for fourteen yards; a train of blood; across the path on the clover towards the pit where the body was found, no footsteps; about a

foot from the footpath ; the dew was on the clover then ; it came to drops at last ; when it first came to the clover a regular run.

Upon his cross-examination, he said—I began to trace the steps about seven o'clock ; about one on the same day it might be, I compared steps with the man's shoes ; I covered with boards two tracks of the man's and one of the woman's before the rain ; from the depth and strides only I considered them running or walking ; one hundred and forty yards from the footpath to the dry pit ; near same length to the other ; blood forty yards off the pit was in the same close where the body was found ; one footstep close to the declivity ; I observed that footstep as soon as I got there first ; I did not observe marks of blood in the harrowed field ; no footsteps of any sort where I traced the blood fourteen yards ; a footpath by ; the track of blood crossed the path, but went in a straight line towards the pit.

Joseph Bird.—I went to the pit ; found Lavell there ; I accompanied him into the harrowed field to trace the footsteps ; took the prisoner's and deceased's shoes for comparing them with the footsteps ; footsteps of a man on the right going towards the dry pit ; farther on from the footpath saw woman's steps to the right ; a few yards up they came in contact ; went towards the dry pit ; they appeared to me as if two persons had been dodging there ; they appeared to me to be the footmarks of persons running ; the length of the strides in one thing ; straight in the toe of the woman's, as if raised ; the man's very deep ; the heels very deep, as the appearance of a heavy man running.*

At the corner they went down the hedge side towards the pit at the bottom of the harrowed field ; there they seemed to be walking ; the strides were shorter, the impressions not so deep ; I saw them down to the pit ; the woman was sometimes on the grass, sometimes on the ploughed field.

Afterwards traced the footsteps of a man up the field ; when near the dry pit went straight across the footpath to the further corner gate, footsteps of a man only running ; I compared the prisoner's shoes with these last footsteps, they exactly corresponded ; both sides the footpath, and compared them with those of the man where he turned out before he joined the woman, and after he had joined her ; they all corresponded ; I compared them first with the right footstep ; right and left shoes ; I kneeled down to blow the dirt out, and see if any nail marks ; I observed two ; across the foot near the small, a bit of rotten wood had the outside of the right side a little up ; the impression of that side not so deep as the other ; I observed two nail marks on that side ; nailed round the toe ; then a space ; then nailed again on the outside ; the two first nearest the toe after passing the space ; I marked the first nail mark ; kneeled down ; it exactly corresponded with the shoe ; I saw at the same time the second corresponded ; it may be half an inch between. I compared the woman's shoes, they exactly corresponded,—in different places ; corresponded in every instance exactly, where the running was ; leather of the shoe was rather raised in places by being wet ; they corresponded ; the shoes were not exactly there alike ; the impressions varied accordingly ; I applied the shoes to the impressions both to the man and the woman ; I have no doubt the impressions were made by those shoes ; we made these examinations on the 27th ; the man's about one o'clock, the woman's about ten or eleven the same day.

Joseph Webster.—I live at Penn's ; the mills belong to me ; saw the body when just brought to the edge of the water ; I observed a considerable quantity of blood forty yards off the pit ; a round space of blood as much as I could cover with my extended hand ; the impression of a human figure on the grass on that spot ; the arms and legs appeared to have been extended quite out ; a very small quantity of blood was about the centre of the human figure, and the other at the feet ; I observed what I considered to be the mark of

* Thornton was a stout athletic man.

knees, toes, and large shoes; I judge them to be marks made by the same person; the lake of blood was much coagulated; that was the part at the feet; I traced the blood for ten yards from that spot towards the pit.* By the stile farther from the pit, in a continuance of the footpath, an impression as if one person had sat down on the other side of the stile, just in the next field, the other way from the harrowed field; I returned in about an hour.

In the harrowed field I perceived the traces of a man and woman's foot; Bird showed them me; I sent for the woman's shoes, and compared them with the marks; they perfectly corresponded; not a doubt they were made by those shoes; they were stained with blood outside the shoe, but inside the foot; afterwards I went to Lavell's to examine the body; the spencer was taken off, and there was on each arm what appeared to me the grasp of a man's hand; I went to Mrs. Butler's on the morning of the 27th to examine her (Mrs. Butler's) clock; I compared it with my watch; hers was forty-one minutes faster than mine; I saw the clothes on the body when taken out of the water; the hind part, the seat of the gown, in a very dirty state; blood was on the gown.

Fanny Lavell.—Body of the deceased was brought to my house; I undressed her; no blood on the black stockings; only one thin petticoat—dimity; no flannel on, so that the blood on it would easily communicate to the rest of the dress.

Thomas Dale.—This was the bundle of things delivered to me; spencer appears quite clean; a good deal of blood about this gown; stockings bloody almost all the way;† she had no cloth on, or preparation for the state she was in.

Mary Smith.—I assisted in examining the body, about half-past ten that morning; the body was not cold; marks of fingers appeared on each arm. I examined the lower parts of her body, they were in a very bloody state; whether it was a monthly evacuation or blood from violence, I cannot tell; she had no cloth on.

The examination before Mr. Bedford the magistrate was then read.

At Tyburn, in the parish of Aston, in the county of Warwick, the 27th *of May,* 1817.

The voluntary examination of Abraham Thornton, of Castle Bromwich,—that he is a bricklayer; that he came to the Three Tuns at Tyburn, about six o'clock last night, where there was a dance; that he danced a dance or two with the landlord's daughter, but whether he danced with Mary Ashford or not he cannot recollect. Stayed till about twelve o'clock: and then went with Mary Ashford, Benjamin Carter, and a young woman; that they walked together as far as Potter's; Carter and the housekeeper went on towards Erdington. He and Mary Ashford went on as far as Freeman's; they then turned to the right, and went along a lane till they came to a gate and stile, on the right hand side of the road; they then went over the stile, and into the next piece, along the foot-road; they continued along the foot-road four or five fields, but cannot exactly tell how many. He and Mary Ashford then returned the same road; when they came to the gate and stile they first got over, they stood there ten minutes or a quarter of an hour, talking; it might be then about three o'clock; whilst they stood there a man came by. He and Mary Ashford stayed at the stile a quarter of an hour afterwards; they then went straight up to Freeman's again, crossed the road, and went on towards Erdington, till he came to a grass field on the right hand side the

* It was the impression on the spot that the girl fainted during the violation, and that the violator, alarmed for his safety, and unwilling to run away or expose her and himself in that state, carried her in his arms and threw her into the pond. The traces of blood without his footsteps were adduced as proof.

† Hence it appears that the dancing had accelerated the menses, and in this state she was not likely to yield to the wishes of her violator, whose passions were nevertheless so far excited that he afterwards waylaid her.

road, within about one hundred yards of Greensall's; Mary Ashford walked on, and he never saw her after; she was nearly opposite to Greensall's. Whilst he was in the field, he saw a man cross the road for James's, but he did not know who he was; he then went on for Erdington workhouse to see if he could find Mary Ashford; he stopped upon the green five minutes to wait for her; it was four o'clock, or ten minutes after four o'clock. He went by Shipley's on his road home; and afterwards by Holden's, where he saw a man and woman with some milk cans, and a young man driving some cows out of a field. He then went towards Twamley's mill, where he saw Mr. Rotton's keeper taking rubbish out of the nets at the flood-gates; he asked the man what o'clock it was? he answered, near five o'clock, or five; Twamley's mill is about a mile and a quarter from his father's house, with whom he lives. The first person he saw was Edward Leake, a servant of his father's, and a boy; that his mother was up. He took off a black coat he had on, and put on the one he now wears, which hung up in the kitchen, and changed his hat, and left them both in the house; he did not change his shoes or stockings, though his shoes were rather wet, from having walked across the meadows. That he knew Mary Ashford when she lived at the Swan, at Erdington, but not particularly intimate with her; that he had not seen Mary Ashford for a considerable time before he met her at Tyburn. He had been drinking the whole evening, but not so much as to be intoxicated.

Thomas Dale.—Assistant constable of Birmingham; after the examination was taken by the magistrate, I went up-stairs with the prisoner to examine his person; he unbuttoned his breeches; shirt, and flap of his breeches, both bloody; he owned he had had connexion with the girl by her consent, but he knew nothing about the murder.

Joseph Cooke.—Was at the dance at Tyburn, saw the prisoner there; saw the deceased there. He (the prisoner) asked Cotterell who she was? He (Cotterell) said Ashford's daughter. He (the prisoner) said he knew her sister very well; he said he had had connexion with her sister, and he would with her or die by it.

Daniel Clarke.—I keep the Tyburn-house (where the dance was); next morning I went to Castle Bromwich; I found the prisoner on the turnpike road on a poney. I asked him what became of the young woman who went with him from my house last night? He made no answer, and I told him she was murdered, and thrown into a pit. Prisoner said murdered! I said, yes, murdered. Prisoner said immediately, I was with her till four o'clock this morning. I asked him to come along with me to clear himself; he went with me to my house, better than a mile; he said he could soon clear himself; he said nothing more about this; we were talking about farming, and the like. He went into the room, and had something to eat and drink; he might remain there half an hour. I did not offer to discourse about it afterwards, and yet I was very much shocked. I did not know that the prisoner had been with her till four in the morning till he told me. I thought he appeared a little confused when I first put the question to him.

George Freer, Surgeon.—I examined the body; between the thighs, and the lower part of the legs, was a great deal of blood; the parts of generation were lacerated, and a quantity of coagulated blood was about those parts; I proceeded to open the body, and found the parts of generation lacerated; some coagulated blood about them; and she had the menses upon her. I then opened the stomach, and found in it a portion of duck-weed, and about half pint of a thin fluid, apparently chiefly water. In my judgment she died from drowning. Two lacerations, quite fresh; I was perfectly convinced, till those lacerations, she was a virgin; some coagulated blood adhered to them. I saw the coagulated blood on the ground; the menses do not produce such blood as that; that coagulated blood proceeded from the lacerations; the lacerations were from the sexual intercourse. There were no lacerations but what might, or might not, arise from sexual intercourse with a virgin,

with consent and without violence. It is very evident that the menses came on at an unexpected moment by her; it may increase a little for a day or two; may be less at first, and increase in an hour or two; it might become extremely copious and troublesome. Dancing was likely to increase it. A robust, fine young person. An unusual quantity of blood independently of the menses.

Evidence on the part of the prisoner.

William Jennings.—I am a milkman; live in Birmingham; I get my milk from Holden's; I and my wife were at his house on Tuesday morning, 27th May, in Erdington. I did not know Thornton before I saw him coming down the lane leading from Erdington, going towards Holden's, as if from Erdington-way; this was *about half-past four*, as near as I could judge, having no watch; we had milked nearly a cow, after I had seen him, and before I asked Jane Eaton what o'clock it was; it might be ten minutes; he was walking leisurely; no appearance of warmth or heat about him.*

Martha Jennings.—I was with my husband by Holden's. I saw the prisoner pass; I did not know him before; he was coming gently along, *about half-past four*. Afterwards I inquired of Jane Eaton the time in the morning. We waited till Holden brought the cows into their yard, and milked a cow; a quarter of an hour, I think, might pass.

Jane Eaton.—I lived at Holden's, Tuesday, 27th May; I got up about half-past four; I could see from the window of my room up the lane towards Erdington, but not far; I saw a man in the lane walking towards Castle Bromwich from Erdington, walking quite slow; some time after that, about a quarter of an hour, Jennings and his wife came to ask me what o'clock; I looked at my master's clock, it wanted ten minutes of five by it; it was not altered for some days after that.

John Holden.—I live with my father; my mother was ill in bed on the 27th May; remember Jennings and his wife being there on that day; know the prisoner; had been down for the cows; in returning, met the prisoner about two hundred yards from the house, after he had passed it.

John Hayden.—Gamekeeper to Mr. Rotton, of Castle Bromwich; I went from my own house ten minutes before five on the 27th May; I heard Rotton's stable clock strike five; in about five minutes I saw the prisoner; he was coming towards Twamley's mill; he was coming as from Erdington, towards Castle Bromwich; I knew him; I asked him where he had been; he said he had been to take a wench home; he stayed with me ten minutes or a quarter of an hour.

James White.—I saw the prisoner at Castle Bromwich, at Wheelwright's bank; better than half a mile from Zachary Twamley's mill; and from there to his (the prisoner's) father's house was better than half a mile; twenty minutes past five by the chapel clock.

The learned judge, says Mr. Holroyd, then proceeded to sum up.—His lordship's observations (together with a very full recapitulation of the whole of the evidence), besides reminding the jury of the importance of the duty of wholly dismissing from their minds every thing they had heard upon the subject previous to the trial, and every prejudice that their minds might have thereby conceived against the prisoner, and of considering the case only upon the evidence which had been laid before them, were such as to point the attention of the jury, particularly to (amongst other things) the fact that Thornton had parted from Mary Ashford previous to her return to Mrs. Butler's, that there was no direct proof that he ever rejoined her, nor any proof whatever that he did so, unless so far as it could be collected from the other circumstances of the case;—to the materiality of the question, at what

* The reports on the spot described him as bursting through the hedge, and soaked with dew from the grass and leaves, and that his irruption was so sudden that he frightened one of the cows.

time did the connexion take place? whether in the *night time* before, or in the *day light* after her return to Mrs. Butler's; and with reference to that point, to the consideration not only of the suspicious circumstances against the prisoner, but also of the condition of the dancing dress, more especially the white silk stockings of the deceased, which she had put off at Mrs. Butler's, contrasted with the state of her black stockings, which she there put on, and in which she was when drowned,—to the evidence of the surgeon;—to the circumstances of the case as the jury should consider them to have been established in proof against the prisoner, independently of the proof of the alibi, and again with reference to that proof of the alibi,—and to the impression which it should have made on their minds as to the truth or falsehood of the facts sworn to by the witnesses brought to prove alibi, or as to those witnesses misrepresenting, or being mistaken, or not, in the day, or time, to which they respectively spoke.

The jury, after a short consultation, returned a verdict of *Not Guilty.*

Mr. Holroyd, the judge's son, introduces observations to render it probable that the girl was drowned by accident! His words are these:—

"It is impossible, however, that she did so upon reflecting on the consequence of what had passed. If this were so, however much the event were to be deplored, still the acquittal of Thornton of the murder was right, though he would in such case remained exposed to the vengeance of an offended God. But although her probable self-destruction cannot be urged as a ground for the acquittal of Thornton, yet another conjecture as to the cause of her death is worthy of consideration, arising from the placing of the bundle on the pit bank, close to the footpath side, in her way home to her uncle's, and from the taking off of her shoes. In the bundle were her half boots, the only part of her daily dress she had not resumed. One of her dancing shoes, with which she was returning home, upon her feet, being all blood, and the other bloody, who can say whether, startled with observing as she walked, that blood upon it which would be visible to persons meeting her on the road, and to her uncle on her return home, she might not have put down her bundle, and taken off her shoes and bonnet, in order to take out and put on her half boots instead of her bloody shoes? And what is more probable than that she should do so? If that was the fact, when the exhaustion and fatigue she had just gone through in her walk (twelve or thirteen miles) to Birmingham and back the day before, her dancing at night, her want of sleep and rest afterwards, the circumstances attending the connexion that had taken place between her and Thornton, her loss of blood, and want of nourishment, for none was on her stomach when her body was opened, what is more probable then that in sleeping or turning to take out her half boots, in order to put them on, on the top of a bank of a very sloping pit side, when the surface of the water was so much as four yards below the pit bank, she should by an inadvertent step backward, or otherwise, slip in, or should turn faint and giddy and so tumble in."

The evidence is followed by other pleadings in defence of the prisoner, and various imputations are made against a virtuous girl, who had the highest character from all who knew her. Mr. Holroyd concludes that as she had the menses before her return to Cox, she had been violated previously, though the race in the field, and the traces of blood, proved directly the contrary; for the traces of blood from the place of violation to the pit could have arisen only while she was carried from one place to the other, and if she had tumbled thus into the pit, or been violated on that spot before her return to Cox, the blood would not have been traceable from the spot to the pit; where even a mark of Thornton's footstep was discovered! That Thornton was the violator too is evident from his own admission, from his wicked previous threat, and from his bloody linen. No hypothesis of his innocency is therefore tenable, except some other person violated the girl in the clover field after Thornton, a supposition never insisted on. At the same time, a judge cannot be too

much commended who hesitates to admit circumstantial evidence; but in this case the circumstances corroborated one another throughout; and it would have been more candid to admit an error on the side of humanity to an accused party, than to persist in a justification, and in the crimination of the suffering parties. We think that justice was baffled in every stage of the proceedings; but, at the same time, we are far from being disposed to quarrel with an exertion in favour of mercy in quarters where it is a rare virtue, especially as we are fully persuaded that the best intentions always actuate the judge who tries the cause.

According to the ancient law, the brother of Mary Ashford appealed Thornton for the murder of his sister, with a view to bring him to a second trial. On this appeal Thornton was again taken into custody, and removed to London, that he might personally appear in the King's Bench to answer the process at the suit of Ashford's brother. But it appeared that by the same ancient law Thornton was competent to repel the appeal by a wager of battle; and, in consequence, to the astonishment of the civilized world, Thornton threw down his glove as a challenge to the appellant. The case was solemnly argued for several days by the counsel of the parties before the judges, who decided that the right of defence by this mode was coeval with that of prosecution by appeal. As therefore young Ashford was a stripling, and Thornton an athletic man, he declined the combat, and the appeal, in consequence, not being allowed to be sustained, no second trial could be had. The attorney-general afterwards brought in a bill to repeal the process by appeal, in order to remove from our jurisprudence the scandal of such a defence as that which was adopted in this case.

CASTAING, THE PHYSICIAN,

FOR MURDER, AT PARIS, NOVEMBER 11–17, 1823.

This trial commenced on Monday, the 11th of November. At a quarter past ten o'clock, Castaing, the prisoner, was brought into court. He was a young man of a fair complexion, and an interesting figure, with a mild and gentle voice, and of peculiarly calm and decorous manners. The bar, upon which the articles necessary to the conviction of the prisoner are placed, did not, upon this occasion, present any blood-stained garments, or any spoils taken from the person of the murdered victim: but a range of decanters, bottles, and phials, containing either the poisons found in the house of the accused, or the analyzed results of them; together with two chests tied and sealed up, in which were contained other substances designed as tests for them.

The indictment charged him with three crimes:—1st, with having administered poison to his young friend, Hippolyte Ballet, about the end of October, 1822; 2dly, with having, in conjunction with the surviving brother, Auguste Ballet, destroyed the will of the deceased, to convert his property to their joint use; and 3dly, with having, in the end of May, 1823, made his accomplice his victim, after he had secured the spoil, by having induced Auguste to bequeath it to him by testamentary instruments. The poison said to be employed in both cases was of a vegetable kind, called acetate of morphine; and it was alleged to have been administered, in the last case, in a tavern in St. Cloud, where Ballet and Castaing had gone to pass a few days as bosom friends.

Castaing was then examined by the president, and in answer to questions put to him, asserted, that he had never written a single prescription for M.

Hippolyte Ballet during his illness; that he had never prevented any of his relations from coming to see him; but that, on the contrary, he had given Madame Martignon an opportunity of seeing her brother, contrary to his express wish and desire. He admitted that he was well acquainted with the effects of vegetable poisons, and that he had bought a considerable quantity of the *acetate de morphine* about the time of M. Hippolyte's death; and in opposition to his first declarations, attributed the rapidity of that gentleman's death to the bad state of his lungs. He denied that Hippolyte had ever made a will, but admitted that he had drawn up the *projet* of one upon a loose piece of paper, in which he left the greater part of his property to his uterine sister, and little or nothing to his brother; and that, in consequence of a conversation which passed between himself and Hippolyte, that *projet* was destroyed, and Hippolyte became reconciled to his brother about a month before his death. He denied that he had ever paid, or said that he had paid, 100,000 francs to Lebret to obtain from him the duplicate of the will placed in his hands; and asserted that Mademoiselle Percillie, in saying that he had made such a declaration, was influenced by the hatred which she felt against him for his endeavours to wean Auguste from her society. He allowed, that he went on the 8th of October, with Auguste and Prignon, to the bank of France, but protested that Auguste had never shown to him any notes, or bundles of notes, which he had then received. He acknowledged, that he had been frequently dunned for a debt of 600 francs; but the reason of that was, that he had accepted it for a friend, and that he thought it hard that he should be compelled to pay it. He admitted, that he had received a gift of 100,000 francs from M. Ballet; but that was partly in payment of a perpetual rent-charge of 4500 francs, which M. Hippolyte had left him by will.

On the morning of the 31st of May, he proposed a walk to Auguste; but Auguste said, "No, we walked enough yesterday; my feet are very much swollen, and I shall not be able to put on my boots." Finding that to be the case, he got up himself at four o'clock in the morning, and walked to Paris, for the purpose of procuring poison to destroy the animals which had disturbed them during the night, and to use in experiments.

Being asked why he purchased the poison of two different druggists, he replied that his original intention had been to go to his own house for it, but that he had altered his mind in consequence of recollecting that his brother, whom he had not seen for seven years, was there, and would prevent him from returning to Auguste at St. Cloud. On that account he purchased the *acetate de morphine* of M. Chevalier. At first he did not think that he should want the emetic, but afterwards, recollecting that it might be necessary, he purchased it of a druggist, whose shop was in his road to St. Cloud. He reached St. Cloud between seven and eight o'clock in the morning; and on his arrival there, asked, by desire of Auguste, for a jug of new milk, warm from the cow. On getting it, Auguste poured out the milk, and drank it; as also he did. Auguste, within three-quarters of an hour after drinking the milk, was seized with violent vomitings, and frequent evacuations of bile and black substances; by the prisoner's order, a servant took away the pot into which these evacuations had been made. The prisoner next admitted, that he then left the room; and being asked why he did so, he said it was to fling into the privy the *acetate de morphine* and the emetic, which he had purchased at Paris, and which he had mixed together in a phial. About eleven o'clock, the doctor, Pigache, first arrived, and prescribed a cooling draught for the patient, who only took it twice. About one o'clock the doctor came again, and prescribed a different draught, which was made up at a druggist's at Boulogne. Castaing admitted, that he gave Auguste several spoonsful of this draught. Being told that a witness, who had seen him administer a spoonful of this draught, declared that, within five minutes afterwards, the most alarming symptoms appeared in Auguste, accompanied by strong convulsions, he replied, that those symptoms did not appear till

nine o'clock, when Auguste had taken several spoonsful, and that Auguste did not lose his knowledge of what was passing around him till ten o'clock, a point on which the president informed him he was directly contradicted by other witnesses.

The prisoner further stated, that, at eleven o'clock, M. Pigache bled Auguste, and ordered him to apply leeches; that he accordingly did so; that M. Pigache advised a second bleeding, but expressed his fear least the patient should expire in the midst of it; that he did not object to it, but only said that it was a matter of great delicacy. Being asked his opinion as to the causes of the rapid progress of Auguste's disease, he replied that he was ignorant of them; that, as to the nature of the disease, it appeared to him at first to be *cholera morbus;* and afterwards to be a congestion on the brain, occasioned by an inflammation of the intestines. He acknowledged writing a letter to Malassis, informing him that he sent him two keys, and recommending him not to say that he had received then from him (Castaing), and to conceal their relationship with each other. Being asked why he had denied the writing of such a letter on a former examination, he answered, that he had done so to conceal a circumstance which might appear to cast suspicion upon his conduct. He denied all knowledge of the keys which he had sent to Malassis, and of the contents of the boxes, the locks of which they opened.

M. Martignon, the brother-in-law of Hippolyte and Auguste Ballet, said, that in consequence of the improvement which appeared visible in Hippolyte's health at the conclusion of the month of September, 1822, he was considerably surprised at hearing, on Thursday, the 1st of October, of his being in the very agonies of death. After recounting the excuses to which Castaing resorted to prevent his wife from having access to her brother during this illness, he informed the court, that on the evening of Hippolyte's death, he had, with the consent of Castaing, called in another physician, M. Segalas; that, after Hippolyte's death, that physician advised that his body should be opened, not from any suspicion of his having been poisoned, but under the idea that the complaint of which he died was a family complaint, and that the knowledge so acquired of its nature might be of use to his surviving relatives; that he informed Auguste Ballet and Castaing of this proposal; that they agreed to it; that the body was subsequently opened by Castaing and M. Segalas; and that the appearance of the head and stomach were precisely similar to those afterwards observed in the head and stomach of Auguste. He also stated, that when Hippolyte's desk and drawers were opened, not a paper of any description was found in them, though it was known that he kept receipts of all his expenditure—nor any money, though Hippolyte had told him, only the day before his illness, that he had 6000 francs by him to pay his carpet-maker's bill. He affirmed that he knew nothing of any will being in existence.

M. Martignon then declared, that, on the day of Auguste's death, being informed that Auguste lay dangerously ill at St. Cloud, he immediately set off for that place, but did not arrive there until after Auguste's death. The physicians, Segalas and Pelletan, there informed him, that the circumstances of his brother-in-law's death were so extraordinary, that they required judicial investigation; and, in consequence, he consented that they should jointly draw up a *proces verbal.* Whilst this was doing, Castaing came into the room, and being informed of their proceedings, expressed his warm approbation of them, stating, at the same time, that it was his opinion that Auguste had died of a congestion on the brain, occasioned by some pecuniary losses, and also by his grief for having deserted Mademoiselle Percillie, of whom he was strongly enamoured. On retiring with Castaing, he asked him whether his brother-in-law had said any thing to him regarding the disposition of his property. Castaing replied, that he had given him two keys to send to a man called Malassis. He desired Castaing not to send them to that person without giving him previous information, and Castaing said that

he would not. He then described the proceedings which took place at St. Cloud, before the *Juge de paix*, from their first institution, down to the time that Castaing was taken into custody. When he first saw Castaing after that event, Castaing told him that he had no knowledge of Auguste's having left any will; but that afterwards, when the body had been dissected, and when the *Procureur du Roi*, at his request, had asked Castaing for Auguste's keys, Castaing said, in giving them up, "If it is to look for the will you want them, it is unnecessary, for that is in the hands of M. Malassis." In consequence, he waited upon M. Malassis, who confirmed what Castaing had said, and promised to deposit the will in the hands of the proper authorities. Malassis deposited it in the hands of M. Sené, from whom he (Martignon) first learned that Auguste had appointed Castaing his universal legatee.

M. Lherminier and M. Segalas, two medical gentlemen, agreed in saying, that in 1821, Hippolyte appeared to them to be in the second stage of a pulmonary tuberculous consumption, under which he might have lingered for a considerable time. On the 2d of October, that disease appeared to be increased by an inflammation in the chest. On opening his body after death, that was actually found to be the case. The same appearances would have been found, had Hippolyte died of any vegetable poison. They agreed that certain vegetable poisons, even when administered in sufficient quantities to produce death, might not leave any traces behind them, either in the stomach or in any other part of the body. M. Segalas, who had been a member of a commission which had unanimously declared that eight grains of the *acetate de morphine* would produce death, though no trial of it had been made on the human frame, added, that, after many experiments which he had since made, he had discovered that fourteen grains of that substance, when given to animals, had not killed them.

Dr. Michel, the usual medical attendant on Hippolyte Ballet, was called in by that gentleman on the 10th of April, 1822, and found him labouring under a tuberculous consumption. That complaint was, however, making such slow progress, that Hippolyte might have lived for many years. He was greatly surprised on hearing, within four months afterwards, that Hippolyte was dead. Being told to notice the appearances which were observed on the opening of Hippolyte's body, and to give his opinion upon them as to the cause of Hippolyte's death, he deposed that the congestion on the brain might have arisen from natural causes, but that some of the alterations observed in his system might have resulted from his having imbibed a narcotic poison like the *acetate de morphine*. These effects, however, sometimes depended on the particular organization of individuals.

M. Billoin, a druggist, deposed, that in January, 1823, the prisoner had purchased of him at several different times a considerable quantity of the *acetate de morphine*. He told the witness that he wanted it for experiments on animals.

M. Caylas, another druggist, deposed that the prisoner had upon two occasions purchased of him *acetate de morphine*. The first time was in May, 1822, and the second on the 18th of September, in the same year; he then asked for ten grains. The witness, before he left the court, remarked, that the indictment stated that the prisoner had taken steps to obtain from several druggists declarations in his favour; now he begged leave to say, that nobody had made application to him on behalf of the prisoner.

Mademoiselle Percillie was the next witness called. She described herself as an actress (*artiste dramatique*) residing in Rue d'Amboise, and stated herself to be 27 years of age. She declared that, to her knowledge, Castaing had caused the destruction of a will before the death of Hippolyte Ballet, or, at least, after his death. She learned from Auguste, that Castaing had induced him to destroy the will of his brother, which had been made in favour of his brother-in-law, Martignon and his wife, and which had been deposited in the hands of Lebret. To effect the destruction of this will, he advised

Auguste to sacrifice 100,000 francs, informing him that his brother-in-law had offered 80,000 francs to have it made valid. On the 8th of October, they went to the bank together. Auguste then told her, that he was surprised at the conduct of Castaing, for Castaing had informed him that Lebret would not settle the business of the will with any other person but himself. She herself thought this conduct very strange, and advised Auguste to place no confidence in Castaing. She had heard Castaing admit the existence of a will, on five or six different occasions, at her own house; and on the day that Auguste and he went to the bank, Auguste showed her a red seal, and said that it was the seal of his brother's will, and that he had paid 100,000 francs for it.

M. Orfila, professor of toxicology in the faculty of medicine, read over the *proces verbal* of the dissection of the body of Auguste Ballet. He then deposed, that from inspection of that paper, he could not declare whether the death of Auguste had been produced by natural causes or vegetable poisons. In answer to repeated questions by the president, he replied, "It is impossible for me, under all these circumstances, to say, whether there has or has not been an attempt to poison. The *corpus delicti* is wanting, because the matter vomited by Auguste is not forthcoming. If that matter had been submitted to me, as well as the liquid contained in the stomach, I could have given in evidence the most satisfactory of proofs. I am certain that by means of an exact analysis, I could easily discover, in a pint of liquid, a single half grain of the *acetate de morphine*." The witness then proceeded to explain the measures by which he was enabled to arrive at such a fact. "Two or three years ago," he said, "it was a common error to suppose, that certain vegetable poisons left no trace exclusive of any other symptom of disease—that was even an axiom of legal medicine. At present, chemistry has made great progress, and it is almost as easy to discover the vestiges of vegetable as of mineral poisons."

M. Vanquelin, a celebrated chemist, spoke almost to the same effect. He had analyzed the remainder of the cooling draught prescribed by M. Pigache, and had not found in it any poisonous substance.

The medical men, who had dissected the body at St. Cloud, were then examined, and gave similar testimony to that which they had given in the *proces verbal.*

The case on the part of the prosecution here closed (Nov. 14).

The first witness called on the part of the defence was M. Chaussieur, a physician of 80 years of age. He stated that he had known several instances of death under circumstances as extraordinary as those of Auguste Ballet, in which not the slightest ground for supposing the deceased were poisoned was detected on opening their bodies. The witness then stated, that if the red spots observed in the stomach of Auguste had been produced by poison, they would have been spread over it generally; instead of which they were merely local.

M. Barruel and M. Magendie, two members of the Institute, deposed to the same effect as the last witness.

On the 17th, at half-past eleven at night, the jury acquitted Castaing of the charge of poisoning Hippolyte Ballet, but found him guilty of destroying the will, and also of poisoning Auguste Ballet, by a simple majority of seven against five.

At midnight he was sentenced to death, and to 100,000 francs damages, and costs towards the civil party in the proceedings.

He died protesting his innocence.

JOHN DONELLAN, ESQ.

FOR THE MURDER OF SIR THEODOSIUS EDWARD ALLESLY BOUGHTON, AT THE ASSIZES AT WARWICH, ON FRIDAY, MARCH 30, 1781, BEFORE THE HON. SIR FRANCIS BULLER.—TAKEN IN SHORT-HAND BY JOSEPH GURNEY, LONDON, 1781.

THE indictment (charging the poisoning to be by *arsenic*) was found by the grand inquest a "true bill." The prisoner upon his arraignment pleaded not guilty; whereupon a petit jury were sworn and charged with the prisoner.

COUNSEL FOR THE CROWN,	FOR THE PRISONER,
Mr. Howorth,	Mr. Newnham,
Mr. Wheeler,	Mr. Green,
Mr. Balguy,	Mr. Dayrell.
Mr. Geast,	SOLICITOR,
Mr. Digby.	Mr. Inge.
SOLICITOR,	
Mr. Caldicot.	

The indictment was shortly opened by Mr. Digby.

Mr. Howorth:—Gentlemen of the jury, the crime imputed to the prisoner at the bar is that of wilful murder, effected by means the most detested and abhorred. Such an accusation naturally excites the indignation of honest minds against the criminal. I shall not endeavour to increase it; it is your duty to resist it, for the nature of the present inquiry calls for your sober and dispassionate attention. The offence is easy of perpetration, but difficult of detection. The murderer by poison is not pointed out to justice by the bloody marks of his guilt, or the fatal instrument of his crime; his horrid purpose is planned in secret, is executed without his presence; his guilt can only be traced by circumstances; but circumstances sometimes do, and in this case, I trust, will as plainly reveal the guilty hand as if a hundred witnesses testified the actual commission of the crime.

It is my duty to state to you those circumstances, and I shall add to them such observations as in my judgment the nature of the case fairly affords, which I shall do the more readily, as I address you subject to the correction of a discerning judge, who will permit nothing to be placed in the scale of justice but what ought to be there weighed.

Sir Theodosius Boughton was a young man of an ancient and respectable family in this county; had he attained to the age of twenty-one, he would have had in his own power, and at his own disposal, the whole of an opulent fortune: in the event of his dying before that time, by much the greatest part of that fortune descended to his sister, who was the wife of the prisoner. Mr. Donellan, and he in her right, would have been entitled to a life-estate in this considerable fortune, the attaining of which, beyond a doubt, induced the prisoner to plan and execute the abominable crime for which he now stands charged. But in as much as the taking of a young man at his time of life, possessed of a good constitution, affected by no indisposition that could at all endanger his life, must necessarily be attended with suspicion, it was found convenient to prepare the minds of those who were his neighbours, of those who were connected with him, for that event which the prisoner had already determined on. You will learn therefore from the witnesses, that for a short time before the death of sir Theodosius, the prisoner had taken many opportunities of expressing the very bad state of health he laboured under, of expressing his opinion that it was impossible for him to live, and that his life was not worth one year's purchase. These representations, you will find, were grossly false; and the only reason for his making use of them was, what I have before suggested, in order to prepare the minds

of people for that event which he knew shortly was to take place. Sir Theodosius, intending to pay a visit to a young gentleman of the name of Fonnereau, a friend of his, living in Northamptonshire, and proposing to stay with him till he came of age, called for the immediate execution of the prisoner's plan; and sir Theodosius being attended by a Mr. Powell, an apothecary, who visited him for a slight venereal disorder he had contracted, and who, in the course of that cure, was giving him some cooling medicines, furnished an opportunity for its completion. You will learn that on Tuesday evening, the 29th of August, Mr. Powell made up a draught, and sent it by a servant of sir Theodosius Boughton, for the purpose of its being taken on the next morning, the Wednesday. It was perfectly well known to the prisoner that sir Theodosius was to take physic on that day: you will learn from Mr. Powell, that the physic was in itself as harmless a draught as could be administered. The medicine was brought to Lawford Hall early in the evening of Tuesday, the 29th. About five o'clock that evening, sir Theodosius, taking with him most of the men servants, went to the river for the purpose of taking the diversion of fishing. Lady Boughton and Mrs. Donellan were walking for some hours in the garden; where the prisoner was during that time I believe cannot be explained to you, but he joined them in the garden about seven o'clock in the evening; and in the course of his conversation, told them that he had been with sir Theodosius a-fishing; that he was solicitous for his return home; and that he was apprehensive, by his staying so late by the river, he would take cold. You will find that this account was not true; he had not been with sir Theodosius any part of that evening a-fishing. What motive or what inducement could he have to tell them this falsehood, you will decide upon, if you are able: it seems, however, necessary, in the mind and apprehension of the prisoner, that he should account for his absence that evening, though he does so at the expense of truth. When sir Theodosius returned in the afternoon from fishing, he was then in perfect health and good spirits; he gave some direction concerning family matters, ate his supper, and went to bed apparently in good health. In the morning, it will be proved to you by a servant, who called him at an early hour, that he appeared in perfect good health, that he leaped out of bed for the purpose of getting something out of his closet which the servant wanted, and that in his apprehension he had never seen him better. About seven o'clock in the morning lady Boughton got up; she went into the room of sir Theodosius; and as he had before desired her to give him his medicine when she was able to do it, she went for the purpose of inquiring of him whether he had taken his physic, or whether he chose she should give it to him. He desired her to reach down the draught which was standing upon the shelf in his bed-room. It is a very singular circumstance that those draughts, which formerly had been locked up by sir Theodosius in his closet, afterwards came to be placed open upon the shelf in his bed-room; and the manner in which it will be accounted for is this: he once complained that he had neglected taking his physic at the time appointed for him; upon which the prisoner said, "You should not lock the physic up; if you leave it upon a shelf in your bed-room, it is not possible you can then mistake; it will be before your eyes; you will be sure to take it when you want it." Lady Boughton reached the draught off the shelf, poured it into a cup, for the purpose of sir Theodosius' taking it; he had not swallowed above half of it, when he complained that it was so nauseous to the taste, and disagreeable to the smell, that he did not apprehend he should be able to keep it upon his stomach. This observation led lady Boughton to smell to the draught; the smell of it was extremely particular, and she will describe it to you that it gave her the idea of the taste of bitter almonds. She, however, gave him the cup again, and he swallowed the whole of the draught; he desired her to furnish him with a bit of cheese to chew, for the purpose of taking away the disagreeable taste. She then gave him a little water; he washed his mouth,

spit it out, and lay down, in order to compose himself. In a very few minutes after he had swallowed this draught, he appeared to be in a considerable degree of agony; his stomach heaved violently; his eyes seemed much affected: those emotions lady Boughton at that time conceived to be his efforts to resist the bringing up the medicine, he having stated his apprehensions that, from the disagreeable taste of it, it would be impossible for him to keep it upon his stomach. She took no further notice of him at that time, but in a very few minutes he became more composed. Lady Boughton then quitted the room, conceiving he was going to sleep; she returned again in about ten minutes afterwards, when, to her inexpressible astonishment, she found this young man in the agonies of death; his eyes fixed, his teeth clenched, his stomach heaving with some violence, and a considerable deal of foam issuing from his mouth. He died in about half an hour afterwards, in the manner that will be described to you by lady Boughton and another witness. Here perhaps it may be inquired, what could be this poison, so fatal in its effects, so instantaneous in its operation? It is hardly material in the present case what the poison was, if you are satisfied in your own mind that he was, in fact, poisoned; and that he was, no man, exercising his sober judgment upon the occasion, can possibly entertain a doubt. A young man, somewhat better than twenty years of age, having a good constitution, labouring under no disorder that could in the smallest degree endanger life, taking a draught; the swallowing of that draught followed with the immediate symptoms that I have now described to you; I say, no man who hears these circumstances related, can for a moment doubt but that poison produced these effects. But the experiments, made by learned and intelligent men in their profession, will satisfy you, if you want satisfaction upon that head, that this poison certainly was laurel water. I shall forbear to give the reasons of their judgment, because you will hear them better from their mouths. But this is a fact, which you will learn correctly from lady Boughton, that whatever the draught was which she administered, most certainly it was not the draught sent by the apothecary; for the smell of the draught which she administered was totally different from that sent by the apothecary: that fact, therefore, will be clear, and out of all controversy; that, whatever it was, it was not that thing sent by the apothecary. Gentlemen, there is a circumstance, and a very important one indeed in this trial, which goes to establish a strong probability that the poison used was a distillation of laurel water.

The prisoner at the bar was skilled in distillation; he was possessed of a still. I shall prove that he worked this still. I shall show, that within a month before the death of this young man, he was frequently in private, locked up in his own room using a still. I shall show that this still was afterwards produced by him, about a fortnight after the death of this young man, filled with lime. Now I will tell you what I conceive, and what you will be inclined to conjecture, was the reason of filling it with lime. If this still had been used for the purpose of distilling laurel water, it would have furnished evident traces of what the prisoner had been about; the smell would have remained; that would have led to a discovery of his practice. In order to remove that smell, lime was placed in the still, and which, as it will be explained to you, was of all others the properest thing to make use of in order to take away the smell. The still thus filled was produced to one of the servants, to be put into the oven to be dried, and afterwards to be cleaned. In order to account for its being filled with lime, the prisoner makes use of this singular excuse: says he, I have put the lime in it, and placed it under my bed for the purpose of killing fleas; an excuse more ridiculous or more improbable, it is not easy to suggest; yet when he gave this still to the servant, he conceived it to be necessary to make some excuse—some apology for its appearance. Lady Boughton, when she returned again into the room of her son, struck with surprise and astonishment at the situation in which he lay, immediately despatched a servant for Mr. Powell, the apothecary,

and for captain Donellan. Mr. Donellan arrived first. And here let me beg your attention to his conduct and behaviour upon coming into the room. The moment he entered, lady Boughton, who imputed the death of her son to the draught that he had swallowed, immediately observed to Mr. Donellan, "Good God! what medicine can Mr. Powell have sent? I am satisfied it would have killed a dog if he had swallowed it." To that the prisoner answered, "Why the devil did Mr. Powell send such a medicine? where is the bottle?" She pointed to it, as it was standing upon the shelf; the prisoner took the bottle down; he immediately poured water into the bottle, he shook it, he rinsed it, he then threw the contents of it into a basin of dirty water standing in the room. Lady Boughton, at this conduct, remonstrated against it; said, "What are you doing? let every thing remain just in the situation in which it is till Mr. Powell, the apothecary, arrives. For God's sake, don't touch the bottle!" The prisoner, notwithstanding that remonstrance, fearing lest by accident he might have taken up the wrong bottle, reaches down another from the shelf, pours water also into the second bottle (for you will observe there never were but two draughts of this sort sent by Mr. Powell); fearing therefore he might have mistaken the bottle, as both had labels upon them, he takes the second bottle, pours water into that, rinses it well, throws the contents of that also into the basin of dirty water. How is this to be accounted for? What ingenuity can gloss over this transaction? How can it be reconciled to any idea of innocence? But that is not all; a maid servant came up, but that servant is since dead; we, therefore, have lost the benefit of her evidence in this prosecution, though in some measure it will be supplied. Whilst the young man was lying in the agonies of death, the prisoner insisted upon this girl taking down the bottles, taking away the dirty things, and cleansing the room. To this lady Boughton objected; she begged every thing might be suffered to continue just in the same state in which it was, till Mr. Powell, the apothecary, came. Mr. Donellan was warm upon the occasion; he insisted upon it; he pressed the woman to take them down—he prevailed; the room was cleared, the bottles were removed, and every circumstance which could have led to suspicion was taken away before this man arrived. Gentlemen, when Mr. Powell comes, observe what was the prisoner's conduct. When the apothecary was shown into the room, instead of the prisoner inquiring what medicine he had sent—instead of his making any observation upon the effect of it—not a word is said, not an expression is made use of, that the draught could, by the most distant probability, have occasioned the horrid situation in which the young man was then lying; but the prisoner, on the contrary, took great pains to explain to Mr. Powell, that sir Theodosius had taken cold, that he had been out late the night before a-fishing, and that cold occasioned his death. Mr. Powell is suffered by the prisoner to depart from the house without having a question put to him about the medicine; without having the bottle shown him; without having any means used of explaining or clearing up his own conduct, relative to the medicine which had produced those fatal effects: this is a circumstance, that if there was no other in this case, in my apprehension, ought alone to decide the fate of the prisoner. But, gentlemen, after Mr. Powell was gone, it occurred naturally enough to the mind of the prisoner that suspicions would arise in the family; those suspicions it behooved him either to prevent or get rid of. You will find that he is industriously going among the servants, even before this young man had expired, accounting to them for his death, representing it variously; to one, that he had taken cold, and that the poor foolish fellow, as he called him, had stayed out very imprudently the night before, and had wet his feet; to another he represents that he had died of the venereal disorder; going through the family, taking pains to account for the sudden death of this unfortunate young man. Now, it is remarkable that he should undertake to state that sir Theodosius had wet his feet the night before a-fishing, and that had occasioned a cold; how

could he know that he had wet his feet? Had he been fishing with him? Could he possibly know the circumstance? But I will prove to you that it was false; in fact, lady Boughton had prudence enough to examine the stockings, which he had worn the preceding evening, and there was not an appearance that they ever had been wetted. It will be proved to you by the servants who attended him, that he continued almost all the time he was out on horseback, that he was cautious of coming near the water, and they are confident his feet never were wet at all. It was necessary for the prisoner also to give some account of his death to the guardian, sir William Wheeler: he wrote to him a letter which I shall read to you. The letter is addressed to sir William Wheeler, written on the morning of the death of sir Theodosius. (For the letter see the examination of sir W. Wheeler, post.)

Now, in this letter, not a word is said of the suddenness of his death, nor of the manner of it, nor of a suspicion that it had been occasioned by the medicine he had swallowed; but the whole of the letter is calculated to impress sir William with the idea that the death was a natural one, and the result of a long illness, for which he had been attended properly, and had received medical assistance. The letter indeed did produce the effect it was intended to produce on sir William's mind; for no inquiry was made, no person of the faculty was called in. The body of this young man was kept secreted from all eyes, but those of the family, till the Saturday following the death, when he was actually soldered up in his coffin. Suspicions, however, had gone abroad; people were struck with the manner of this young man's death; they were greatly alarmed; and those suspicions were so strong, that they at last reached the ears of the guardian, sir William Wheeler. On the Monday, sir William Wheeler communicates these suspicions to the prisoner; and here it will be very material for you to attend to sir William Wheeler's letter to him, and to advert to his conduct upon that occasion. On Monday, the fourth of September, sir William Wheeler writes a letter addressed to Mr. Donellan, stating to him, in express terms, that he had received information that sir Theodosius Boughton must have died by poison; calling upon him, in order to satisfy the family, in order to relieve the public from the suspicions they entertained, to have the body opened; and in his letter he expressly insists upon its being done: he names the persons he wished to have called in upon the occasion, a Dr. Rattray, a Mr. Wilmer, and a Mr. Snow. This letter was received by the prisoner on the Monday. On the Monday, in consequence of that requisition—for he could not have done otherwise; he dared not to have resisted the request of sir William Wheeler to send for these persons; they were accordingly sent for—the prisoner sends a note back to sir William Wheeler, stating the approbation of himself and of the family that the body should be opened. In answer to that, a second letter is sent from sir William Wheeler, saying that he is perfectly satisfied to find that the family are in that disposition; that he himself cannot come over to Lawford Hall; that it would be of no use, in truth, if he did come over; that the medical gentlemen were the most proper to apply to, and to act upon the occasion. Dr. Rattray and Mr. Wilmer came to Lawford Hall about eight o'clock on the Monday evening, the 4th of September; they were met by the prisoner, who took them into a parlour. He there inquired of Dr. Rattray, whether he had heard from sir William Wheeler. Dr. Rattray said he had not. "Why," said the prisoner, "I have received a letter from sir William Wheeler, which is very polite and very friendly; I will show it to you." Upon that he searched as if it were in his pocket, but produces the *cover* of the letter only, and not the letter itself. Shortly afterwards, however, he did produce, not the first letter written by sir William Wheeler; not that letter in which he stated the information he had received, that this young man had been poisoned; not that letter in which he pressed and insisted on the body being opened; but he produces the second letter, containing no directions, containing nothing more than an expression of his satisfaction that the family

were disposed to have the body opened. The perusal of which, you will necessarily perceive, could give no idea at all to Dr. Rattray and to Mr. Wilmer of the occasion of their being sent for. Gentlemen, in point of fact, it was never communicated to them by the prisoner. Instead of desiring them, instead of urging them to open the body, instead of stating that it was in order to satisfy the suspicions of the public, in order to investigate what was the cause of the death, not a word of such intent was mentioned; they asked him only why they were sent for to open the body. His answer was, "It is for the satisfaction of us all." They are shown into a room. The body appeared at that time to be in such a state of putrefaction, that not being called upon to act, the prisoner not having explained to them the reason why they should act, they declined doing any thing, because the body appeared to them at that time to be in such a state that it would be attended with some degree of personal danger to themselves, if they attempted to open it. They are dismissed the house; they are sent away without the prisoner ever once asking an opinion of them, without ever calling upon them for their judgment, to say, even from the appearance of the body, what had occasioned the death: not a word is said to them, not an inquiry made. They are suffered to depart, leaving Mr. Donellan and the family just in the state in which they found them. Gentlemen, this is not all; on the next morning, a young man, a Mr. Bucknill, a surgeon, came to Lawford Hall. He had heard of the suspicions entertained; he had learned that the gentlemen of the faculty, who had been at Lawford Hall the evening preceding, had declined opening the body. He came to the prisoner, Donellan, stating the purpose of his coming; saying he was ready at all hazards to open the body, in order to give satisfaction to the public. The prisoner would not permit him to do it; the prisoner assigns, as a reason for his refusal, that he had not been ordered by sir William Wheeler to send for him; that the persons sent for by sir William had declined opening the body; that it would be *unfair* and *improper* in him to permit anybody else to attempt it after they had declined it; and with reasons and excuses of this sort, this young man was permitted on the morning to depart from the house, ready as he was to open the body, and to give every satisfaction that inspection could have afforded. After that the prisoner writes an answer to sir William Wheeler's first letter; this letter is dated the 5th of September, 1780. (For the whole of this letter see the examination of sir W. Wheeler, post.)

Mind, gentlemen, the fallacy of this. What did he give? did he give the letter which conveyed the directions? did he give the letter which called upon the medical gentlemen to act? did he give the letter which contained the suspicions of this young man having been poisoned? You will learn from the witnesses, that the letter which they saw was that second letter—a complimentary answer to Mr. Donellan's note—containing no directions, containing no instructions for them to act; and upon a perusal of which, they were furnished with no ideas for their conduct. The letter then goes on: "The four gentlemen proceeded accordingly, and I am happy to inform you that they fully satisfied us." Good God! in what does this satisfaction consist? What inquiry was made—what investigation of the death—what opinion was asked after—what opinion was formed? Not a single circumstance was ever mentioned—not a single inquiry ever made—not a single opinion ever expressed to the prisoner; yet upon this he writes back to sir William Wheeler, "that they have fully satisfied us." In my apprehension, were there no other fact in this case than this single letter, it speaks as strongly as a thousand witnesses present, and testifying to the actual commission of the crime. I shall not read the latter part of the letter now, because the whole of it will be read to you in evidence; this part I use as affording an observation which I conceive material for your consideration.

Mr. Newnham.—I desire the whole of the letter may be read now.

Mr Howorth.—As the counsel for the prisoner desires the whole of the

letter to be read now, I shall certainly do it. (See examination of sir W. Wheeler, post.)

This is the whole of the letter; and the latter part of it is calculated still to mislead sir William Wheeler, is calculated to allay his suspicions, and to account for his death from other causes than poison. The letter certainly produced in sir William Wheeler's mind the effect intended by it; for upon the perusal of it, he was satisfied that the body had been opened; and as he was acquainted with the abilities and the integrity of the gentlemen applied to upon that occasion, if they were satisfied, he himself was perfectly satisfied. You will judge, however, of his surprise on learning, three or four days afterwards, that the body never in fact had been opened. He immediately writes to Mr. Donellan, states to him his astonishment at the body not having been opened; desires immediately that Mr. Bucknill might be sent for, that Mr. Snow might be sent for, and that *at all events* the body should be opened. Mr. Bucknill is sent for. When Mr. Bucknill comes, as Mr. Snow had not at that time arrived at Lawford Hall, he went to see a patient, and left word he should be back in an hour. Mr. Snow within that hour comes; Mr. Snow is told that Mr. Wilmer had declined opening the body, because it was so much in a state of putrefaction that he apprehended danger. Upon this information, Mr. Snow is got out of the house; and upon Mr. Bucknill's return, it is stated to him that Mr. Snow had declined it, it being too hazardous for him; and Mr. Bucknill is sent away also, without the body having been opened. This is a most extraordinary circumstance. What, after the letters received from sir William Wheeler, after the suspicion is strongly pointed, after an express requisition, yet the prisoner is found preventing, by a conduct the most artful that can be imagined, the body's being opened! On that day the body was buried; but before its interment, he writes a note to sir William Wheeler, to satisfy him as to the reason why the body was not opened. This letter is very material for your consideration; in answer to sir William Wheeler's, this was the day upon which the body was buried, about one o'clock. (For this letter see evidence of sir W. Wheeler, post.)

This, gentleman, is a specious show, indeed, of an inclination to postpone the burial; till when? till Dr. Rattray and Mr. Wilmer are sent for? who, if they are sent for, can give no information upon the subject; not an offer made to Mr. Bucknill to be then permitted to open the body, nor an offer made that anybody else should be called upon; but he offered to postpone the burial of the corpse till he (sir William) had seen the persons he had sent there, namely, Dr. Rattray and Mr. Wilmer, from whom he can by no possibility receive information upon the subject. Between the hours of three and four o'clock that evening, the body was buried; but the circumstances of its being interred without having been previously opened, wonderfully alarmed the minds of all people; and it was insisted upon, and laudably, by the gentlemen in the neighbourhood, that the coroner should be called, that the body should be taken up, and that should be done by course of law which the prisoner had taken so much pains to prevent. The body was accordingly taken up and opened. What appearances the body afforded, you will hear from the gentlemen who were present and opened it. I shall not forestall the account which they will give you, because you will hear it with more propriety, and with greater correctness, from their mouths; it will be enough for me to say, that the appearances the body afforded, confirmed them strongly in their judgment and opinion that this young man had been poisoned. During the course of this examination before the coroner, lady Boughton, the prisoner Mr. Donellan, and I believe the whole family, were called upon as witnesses. When lady Boughton was telling the whole circumstances of the case; when she came to that most remarkable instance of the prisoner's having washed the bottles, in spite of every opposition that she could give to the measure; the prisoner was observed to lay hold of her by the sleeve, to endeavour to check her from giving that fact in evidence. That circumstance struck the

persons who observed it; it is a circumstance that cannot be explained by any possibility; it cannot be imputed to folly; no art can explain it away. Those who are at all acquainted with the human mind, must feel it as speaking, most forcibly, the efforts of a guilty man to screen from the public eye a fact which he perceived must stamp his guilt upon every mind. That circumstance will be proved to you by people of veracity; nay, gentlemen, it will be in proof to you, that after he returned to Lawford Hall with lady Boughton, before the whole of the inquiry was over before the coroner he chides her for meddling in it; he checks her, says you are not to give the whole account, you are only to answer such questions as are put to you, and you must say nothing else. Say nothing else! is there any thing to be concealed? is it material for him that any thing should be concealed? Yet this you will have proved to be the conduct of the prisoner, both before the coroner and upon his return to Lawford Hall. When the prisoner found that the idea of this young man having been poisoned was so generally entertained, that there was no probability of getting rid of that suspicion by the ridiculous pretence of his having taken cold, or having died by any such means, captain Donellan writes a letter addressed to the coroner and his jury. That letter was sent to them on the last day of their sitting, which was the third day. This letter is very material, and I shall read it to you. It is addressed by the prisoner to the coroner and the gentlemen of the jury at Newbold. (For this letter see the close of the evidence for the crown, post.)

The materiality of this letter is, that you will find the prisoner, when the idea of sir Theodosius having been poisoned is so far circulated that it is universally believed, that he then finds it necessary to account for the death by poison; and the whole scope of that letter is to induce the jury to believe that this young man had inadvertently poisoned himself. Now, independent of the strength of that observation, it will be in proof to you that the letter is false in fact; for it is not true, that the family had not, for many months, touched of any dish that sir Theodosius had eaten of: on the contrary, the observation was never made, and you will learn that the whole was clearly an invention calculated to answer the purposes proposed by the prisoner in that letter. The prisoner, however, was committed upon the coroner's warrant to jail. Since his commitment, his conduct will afford very material matter for your consideration. Since neither the pretence of this young man's having taken cold, and died by that means; since the invention of his having inadvertently poisoned himself had not been adopted by anybody; it was found necessary then for the prisoner to suppose, and then for him to give out, that this young man had been poisoned by somebody else; and I shall call to you a witness, who has had frequent conversations with him in jail—and conversations very fairly to be given in evidence here; because this man frequently cautioned the prisoner not to mention before him circumstances which may make against him, as probably he should be called to give evidence of them; but so solicitous has the prisoner been to account for this young man's death, that he has frequently to this man pressed the conversation upon him, notwithstanding he has been cautioned by the man respecting it. In one of the conversations, it will be in proof to you that Darbyshire, which is the name of the man, said to him, Why do you believe that sir Theodosius was in truth poisoned?—Says the prisoner, I make no doubt of it.—Why, who do you think could have poisoned him?—Why, says he, it must lie among themselves.—Who do you mean?—Why, says he, either sir Theodosius himself, lady Boughton, or the apothecary, or the servants; it must be among them; some of them did it, there is no doubt of it.—Why, says Darbyshire, the young man would hardly poison himself?—Why, no.—I don't think that neither, says Darbyshire; it could not be the interest of the apothecary, he could get nothing by it, he would lose a patient by it; and lady Boughton could get nothing by it, besides it's being in itself the most unnatural conduct?—Upon which the prisoner turned round, and said, I don't know which of them, but it is amongst

them.—This, then, affords decisive evidence that, in the prisoner's own judgment, this young man had been poisoned by somebody. But I shall add to that another very strong piece of evidence, indeed, to prove the prisoner is quite satisfied in his own mind that sir Theodosius was poisoned ; and that is a letter which, since he has been in confinement, he wrote to Mrs. Donellan; and this letter I produce without feeling the least reluctance, because it will be proved to you that the letter was sent unsealed, in order to be delivered to Mrs. Donellan. The man who carried it went to the prisoner, told him, "Sir, you have not sealed this letter—do you mean I should carry it open?"—"Yes I mean that you should, and I mean that it should be made public;" upon that the gentleman who carried it opened it, took a copy of it, which copy I shall produce and read in evidence. This letter is dated Warwick, the 8th of December, 1780.

Mr. Newnham. Till your lordship decides that a copy of a letter is evidence, I submit to your lordship it ought not to be opened.

Court. It depends upon the manner in which they lay it before the court; they must give the best evidence that the nature of the case admits; now the custody of Mrs. Donellan, in point of law, is the custody of the prisoner.

Mr Howorth. "I am now informed that Mr. Harris' clerk is here; and hope that by this time you have removed under the friendly roof I last recommended to you, and no longer remain where you are likely to undergo the fate of those that have gone already by sudden means, which Providence will bring to light by and by. In my first letter to you from Rugby, the 14th of November last, I mentioned a removal; I had my reasons, which will appear in an honest light in March next, to the eternal confusion of an unnatural being."

Now, gentlemen, by this letter you perceive that the prisoner is satisfied of the fact that this young man had in truth been poisoned; but for the purpose of removing the suspicion from himself, now dares to lay a charge where suspicion has never fallen. The materiality of this letter, however, is only to prove the conviction of the prisoner's mind that this young man had in truth been poisoned: that he has been poisoned is a melancholy truth. Justice demands the punishment of the murderer; it remains only for your verdict to determine the guilt, and to consign the criminal to his fate.

EVIDENCE FOR THE CROWN.

Mr. Thomas Powell sworn—Examined by Mr. Wheeler.

Q. Of what profession are you? A. An apothecary.

Q. Where do you live? A. At Rugby.

Q. Is that near to Lawford Hall, where sir Theodosius Boughton resided? A. It is within about three miles.

Q. Had you for any time before the death of sir Theodosius Boughton been employed as his apothecary? A. Yes, for two months.

Q. When did sir Theodosius die? A. On the 30th of August.

Q. In what state of health was he when first you attended him? A. He had got a venereal complaint upon him.

Q. To what degree? A. Not very high, rather slight; a fresh complaint.

Q. Did you give him any medicine for that complaint? A. I gave him some cooling physic.

Q. How long might you continue that? A. For about three weeks.

Q. Did you then cease to give him physic? A. Yes.

Q. For how long? A. More than a fortnight.

Q. How came you afterwards to repeat the medicines? A. Because he had a swelling in his groin.

Q. To what degree did that arise? A. To a very small one; it did not rise above the skin.

Q. Did you give him any more medicines? A. Yes, four doses; two of manna and salts, the other two of rhubarb and jalap

Q. Was any thing else given to sir Theodosius Boughton? A. Nothing else, but an embrocation to wash himself with.

Q. When did you send sir Theodosius the last draught? A. On a Tuesday, the 29th of August.

Q. By whom did you send them? A. Samuel Frost.

Q. How long before you sent sir Theodosius this last draught had you seen him? A. On the Tuesday afternoon, the same day I sent the last, I saw him.

Q. In what state of health did he then appear? A. In great spirits and good health.

Q. How long before that had you seen him? A. The Sunday or the Saturday before.

Q. In what state of health did he then appear? A. A very good state of health.

Q. Did you ask him how the first of these draughts agreed with him? A. He told me that which he took on the Saturday made him sick.

Q. You say you saw him on Sunday or Saturday, and he appeared to you in good health, and likewise saw him again on the Tuesday? A. Yes.

Q. You before told us you sent this last draught by Frost; have you one of the same kind about you? A. I have (produces a draught in a two ounce phial).

Q. Was it a phial of the same size as this, and filled with the same ingredients? A. Yes.

Q. What are those ingredients? A. Rhubarb and jalap, spirits of lavender, nutmeg water, and simple syrup.

Q. I see you have another draught in your hand. A. Yes.

Q. What is that? A. The same, except the simple water; there is the same quantity of rhubarb and jalap.

Q. What is added to that? A. Laurel water.

Q. You mentioned before that this was sent upon the Tuesday; it was I think upon the Thursday that sir Theodosius Boughton died? A. No, on Wednesday morning.

Q. Was you then sent for to Lawford Hall? A. On the Wednesday morning I was.

Q. At what time? A. About eight or nine o'clock.

Q. Who was the person that came for you? A. William Frost.

Q. The same man that you had before sent the draught by? A. No; his name was Samuel Frost.

Q. What message did he bring to you? A. He said sir Theodosius was very ill, and that he was sent by lady Boughton to fetch me; I went immediately.

Q. What time might it be when you got there? A. Nearly nine o'clock.

Q. When you got to Lawford Hall, did you go into the room where sir Theodosius was? A. I did.

Q. Whom did you find there? A. I met captain Donellan in the court-yard; he went along with me into the room.

Q. Who were in the room besides you and Mr. Donellan? A. Some servant, I cannot tell which.

Q. Who else was there? A. Nobody else.

Q. Was lady Boughton there when you first came? A. Not when I first came.

Q. In what situation did you find sir Theodosius Boughton? A. I saw no distortion.

Q. What did you see? A. Nothing particular.

Q. Was he alive or dead? A. He had been dead near an hour.

Q. Did Mr. Donellan ask you any questions? A. He asked me no question at all.

Q. How long might you remain with him in the room? A. I cannot tell exactly; for some minutes.

Q. Did you say any thing to him? A. I asked him how he died; captain Donellan told me in *convulsions*.

Q. Did you see any thing of the bottles you had before sent? A. I saw nothing of them; they never were mentioned.

Q. Were they in the room? A. No.

Q. Had you any further account than what you have now mentioned, given you by anybody of the manner of sir Theodosius' death? A. No other than that he died of convulsions.

Q. Do you remember having any other conversation with Mr. Donellan about sir Theodosius? A. I don't know the particular words he made use of; but his general intent was to make me believe that sir Theodosius Boughton had taken cold.

Q. Are you acquainted with Mr. Donellan's handwriting? A. Yes, I am.

Q. Have you often seen him write? A. I have seen him write. (Several letters were shown the witness, which he deposed were the prisoner's handwriting.)

Q. I believe you mentioned the quantity of ingredients you mixed up? A. Fifteen grains of each.

Mr. Thomas Powell, cross-examined by Mr. Newnham.

Q. Describe exactly the proportion of the several ingredients. A. Fifteen grains of each, of rhubarb and of jalap; spirits of lavender, twenty drops; nutmeg water, two drachms; two drachms of simple syrup, and an ounce and a half of simple water.

Q. Then there are two ounces only of liquor, except the twenty drops of lavender? A. Yes.

Q. You had given one of these draughts on the Monday? A. Yes.

Q. What effect had the first medicine you gave him? A. It purged him very well, and agreed with him very well; he had many stools.

Mr. Howorth. Did it make him sick? A. Not at all, it agreed with him very well; it was on the Saturday it made him sick; and in consequence of that I changed the physic from manna and salts to rhubarb and jalap.

Mr. Newnham. You say that Mr. Donellan told you that sir Theodosius died of convulsions, and that was all the conversation about it? A. Yes.

Q. Did it not occur to you, as a physical man, to inquire when these convulsions commenced, and when sir Theodosius died? A. The convulsions took place soon after the draught was taken.

Q. What idea have you of soon? A. A quarter of an hour, or sooner.

Q. Do you know for certain? A. I do not.

Q. Why did you not inquire? A. I did inquire.

Q. You saw lady Boughton? A. Yes.

Q. Had you no conversation with her? A. Yes, she said he was convulsed soon after he took the medicine.

Q. Did not you inquire how soon? A. He was convulsed almost immediately.

Lady Anna Maria Boughton sworn—Examined by Mr. Howorth.

Q. How old was sir Theodosius Boughton? A. Twenty years of age the 3d of August last.

Q. What fortune would your son have been entitled to upon his coming of age? A. Above £2000 a year.

Q. Upon the event of his dying before he came of age, what would then become of the fortune? A. The greater part of his fortune would have descended to his sister.

Q. Who I understand married Mr. Donellan? A. Yes.

Q. How long had Mr. Donellan resided in your family at Lawford Hall? A. From some time in the year 1778; from about the month of June.

Q. How long had your son, sir Theodosius, made part of the family at Lawford Hall before his death? A. In the year 1778 he came from Mr. Jones, a tutor of his, and came to live at Lawford Hall.

Q. Have you, at any time, had conversation with the prisoner, Mr. Donellan, respecting the state of your son's health; and about what time was that conversation held? A. Several times before the deceased's death he spoke to me about sir Theodosius' health.

Q. What were the expressions used by him when he talked about the bad health of your son? A. He said, "Don't talk about leaving Lawford Hall; something or other may happen; he is in a very bad state of health; you cannot tell what may happen before that time." I thought he meant his being so very venturous in going a-hunting, and the like.

Q. Do you know of any intention in sir Theodosius to have gone to a friend's in Northamptonshire, and to have stayed there for any time? A. He expected Mr. Fonnereau to come to Lawford Hall the latter end of that week in which he died.

Q. I believe Mr. Fonnereau did in fact come? A. Yes, he did.

Q. When? A. He came, I believe, on the Friday night.

Q. Had you heard from Mr. Donellan any thing respecting the stay that sir Theodosius would probably make in Northamptonshire? A. I don't recollect.

Q. Was his stay intended to be long or short? A. My son said, Mr. Fonnereau was to stay with him a week; then my son was to return with him in Northamptonshire.

Q. Was he going to stay a long or short time there? A. He did not say how long.

Q. Mr. Powell, we have heard, was the apothecary who attended him. Do you recollect any draught being sent to sir Theodosius on Tuesday, the 29th of August? A. The servant was sent on Tuesday for the bottles. Upon inquiry where the servant was, Mr. Donellan said, "O, sir The has sent him a second time for the bottle of stuff!"

Q. It was known in the family that sir Theodosius was to take his physic next morning? A. Yes, it was.

Q. Does your ladyship know where sir Theodosius used to keep the physic that was sent him? A. He used to put it in his dressing-room. He happened once to forget to take it; Mr. Donellan said, "Why don't you set it in your outer room; then you would not so soon forget it."

Q. Do you know whether in fact that advice was followed? Where were the medicines kept after that? A. He had several after that upon his shelf over his chimney-piece in his outer room.

Q. Where did sir Theodosius go on the evening of Tuesday, the 29th? A. I saw him in the afternoon; he went a-fishing.

Q. About what time did he go? A. About six o'clock.

Q. Did you see him shortly before he went? A. No, I did not.

Q. After he had gone out a-fishing, what men servants were left behind in the family? A. The gardener, and the coachman, and John, the footman.

Q. Were there either of men servants with sir Theodosius a-fishing? A. Yes, Samuel Frost was the only one.

Q. What became of yourself and Mrs. Donellan? A. She and I went to take a walk in the garden.

Q. How long do you think you and Mrs. Donellan were out in the garden? A. Above an hour.

Q. When was it that you had last seen Mr. Donellan before you walked into the garden, and where? A. To the best of my remembrance, I saw nothing of him after dinner.

Q. Do you remember whether he joined you in your walk in the garden, and about what time? A. He came about seven o'clock out of the house-door to me and Mrs. Donellan, and told us that "he had been to see them a-fishing, and that he would have persuaded sir The to come in lest he should take cold, but he could not."

Q. Do you recollect at what time sir Theodosius came home? A. A little after nine o'clock.

Q. Was he then apparently in health? A. He then seemed very well.

Q. How did he dispose of himself till he went to bed, and at what time did he go to bed? A. He went up into his own room soon after he came in.

Q. Did he eat any supper? A. I told him I was going up into my room. As I was going up-stairs he called me into his room, and desired my permission to make use of my servant to go next morning with the net, as he expected his friend, Mr. Fonnereau, to come. He went to bed.

Q. How did he appear at that time in his health? A. He seemed very well.

Q. What time did you see him next morning? A. About seven o'clock.

Q. Did you go into his room at that time? A. He had desired me to call him as I went by his room in the morning, and give him his physic.

Q. At that time in the morning how did he appear as to his health? A. He appeared then to be very well.

Q. Give the jury an account of the physic you gave him, and the manner of its operation. A. I asked him, "where the bottle was;" he said, "it stood there upon the shelf." First of all, he desired me to get him a bit of cheese in order to take the taste out of his mouth, which I did; he desired me to read the label; I accordingly did, and found there was written upon it, *purging draught for sir Theodosius Boughton.*

Q. When you gave him the draught, did he make any, and what observations upon it? A. As I was talking to him I omitted shaking the bottle; he, observing that, said, "Pour it back again, and shake the bottle," and in so doing, I spilt part of it upon the table; the rest I gave him. As he was taking it, he observed, "it smelt and tasted very nauseous;" upon which, I said, "I think it smells very strongly like bitter almonds." I gave him the cheese; he chewed it and spit it out. He then remarked, "that he thought he should not be able to keep the medicine upon his stomach." I asked him "if he would have some water?" I gave him some. He washed his mouth, and spit that out, and then laid down.

Q. Please to open that bottle (giving lady Boughton the genuine draught), and smell at it, and inform the court whether that smells at all like the medicine sir Theodosius took? A. No, it does not.

Q. Please to smell this (giving lady Boughton the draught with the laurel water added to it). A. This has a smell very like the smell of the medicine which I gave him.

Q. What was the first observation your ladyship made of any appearance upon sir Theodosius after taking the medicine? A. In two minutes or a minute and a half after he had taken it, he struggled very much; it appeared to me as if it was to keep it down, and made a prodigious rattling in his stomach, and guggling; and he appeared to me to make very great efforts to keep it down.

Court. How did he make a rattling? A. A noise in his stomach as if it would come up again.

Q. How long did you observe these symptoms continue? A. About ten minutes; he then seemed as if he was going to sleep, or inclined to dose. Perceiving him a little composed, I went out of the room. I returned in about five minutes after into his room; there, to my great surprise, I found him with his eyes fixed upwards, his teeth clenched, and froth running out of each corner of his mouth.

Q. What did you do upon that? A. I ran down-stairs, and told the servant to take the first horse he could get, and go immediately for Mr. Powell.

Q. Was any other person sent for? A. No.

Q. When did you first see Mr. Donellan after that? A. I saw him in less than five minutes; he came up to the bedchamber where my son was, and asked me, "*What do you want?*" I said, "I wanted to inform him what a terrible thing had happened; that it was an unaccountable thing in the doctor to send such a medicine, for if it had been taken by a dog, it would have killed him; and I did not think my son would live." He asked in what manner sir The was taken, and I told him. Then he asked me where the physic bottle was. I showed him the two draughts. He took up one of the bottles, and said, "is this it?"—"Yes," said I. He took it up, poured some water out of the water-bottle, which was just by, into the phial, shook it, and then emptied it out into some dirty water which was in a wash-hand basin.

Q. Did you make any observation upon that conduct? A. After he had thrown the contents of the first bottle into the wash-hand basin of dirty water, I observed that he ought not to do that. I said, "What are you at? you should not meddle with the bottle." Upon that he snatched up the other bottle, and poured water into it, and shook it; then he put his finger to it and tasted it. I said, "what are you about?—you ought not to meddle with the bottles." Upon which, he said, "I did it to taste it."

Q. Had he tasted the first bottle? A. No.

Q. Did any of the servants come up into the room? A. Yes, Sarah Blundell and Catherine Amos.

Q. What is become of Sarah Blundell? A. She is dead.

Q. Upon their coming up, was any thing said or done by Mr. Donellan that particularly called your attention to it? A. He desired Sarah Blundell "*to take away the basin, the dirty things, and the bottles;*" and he put the bottles into her hand.

Q. What did you say to that? A. I took them out of her hand, set them down, and bid her let the things alone.

Q. Did you at that time assign any reason why they should be left there, and for what purpose? A. I did not.

Q. What was done upon that? A. He then desired "*that the room might be cleaned,*" and the clothes thrown into an inner room. I opened the door of the inner room. As soon as Sarah Blundell had put the clothes into the inner room, Mr. Donellan, while my back was turned, put the bottles into her hand again, and bid her take them down; and was angry she had not done it at first.

Q. Did you see the bottles put into her hand the second time? A. I did not.

Q. Did you hear any order given by him? A. No, but Sarah Blundell told me so.

Q. Then all you know in fact is, that they were taken out of the room? A. They were.

Q. You did not see who took them out? A. No.

Court. Did you see who first left the room after the clothes were put into the next room? A. Sarah Blundell left it first.

Q. How soon did you perceive that the bottles were gone? A. I did not observe it directly.

Q. But how soon did you find out that they had been removed? A. I cannot tell the time.

Q. Before you left the room yourself, did you discover that the bottles were gone? A. I did not.

Mr. Howorth. When all this happened, the washing the bottles and removing the clothes, was sir Theodosius Boughton dead? A. He was nearly

dead; one of the maids was wiping the froth off his mouth, and his stomach at that time heaved.

Q. In the course of that morning do you remember having said any thing to Mr. Donellan, or he to you, as to the suspicions entertained of the medicine he had taken? A. Some time afterwards I was down in the parlour, Mr. Donellan and my daughter were there. Mr. Donellan, in my presence, said to his wife, that her mother (meaning me) had been pleased to take notice of his washing the bottles out; and that he did not know what he should have done if he had not thought of saying he put the water into it to put his finger to it to taste.

Q. What passed further upon that? A. I turned away from him to the window, and made no answer to it; upon which he again repeated the same.

Q. What happened then? A. As I made no answer, *he desired his wife to ring the bell in order to call up a servant;* when the servant came, he ordered that servant to send in Will, the coachman.

Q. Did the coachman come? A. He did.

Q. Relate what passed between Mr. Donellan and the coachman. A. When the coachman came, Mr. Donellan said, "Will, don't you remember that I set out of these iron gates this morning about seven o'clock?"—"Yes, sir," said he. "You remember that, don't you?"—"Yes, sir."—"And that was the first time of my going out. I have never been on the other side of the house this morning. You remember that I set out there at seven o'clock this morning, and asked for a horse to go to the Wells?"—"Yes, sir." Mr. Donellan said, "then you are my evidence." The servant answered, "Yes, sir."

Q. Did Mr. Donellan make any other observation which called your attention? A. None that I recollect.

Q. Do you remember Mr. Donellan receiving a letter from sir William Wheeler, and when was the first letter he received from sir William? A. He received a letter from sir William Wheeler, desiring the body might be opened.

Q. Do you remember being shown the answer to that letter? A. Yes, I do.

Q. Who showed it you? A. Mr. Donellan.

Q. Do you recollect having made any observation upon his answer which he sent sir William Wheeler after Dr. Rattray and Mr. Wilmer had been there? A. I remember he read the letter: I thought it of no use; that it would be unnecessary to send it.

Q. Did you state any reason why the letter was to be objected to? A. I did not; I said, "He had better let it alone, and not send such a letter as that."

Q. You disliked the letter, but the reason of your dislike you did not explain to him? A. No; but he said it was necessary to send an answer, and he would send it.

Q. Do you recollect upon what day sir Theodosius was buried? A. He died on the Wednesday morning, and was buried on the next Wednesday.

Q. Do you remember afterwards attending before the coroner and his jury, in order to be examined? A. I do.

Q. Was Mr. Donellan present at that examination? A. Yes, he was.

Q. Did you mention to the jury, in your account there, the circumstance of the prisoner's washing the bottles? A. I did.

Q. When you returned home to Lawford Hall, had you any conversation with Mr. Donellan respecting that circumstance? A. He said to his wife, before me, "That I had no occasion to have told the circumstance of his washing the bottles. I was only to answer such questions as were put to me, and that question had not been asked me."

Q. On the morning of the death of your son, did Mr. Donellan endeavour to account to you, by any means, in any way, for what had been the occasion of his death? A. When the things were removing away, to be put into the

inner room, he said to the maid, "Here take his stockings, they have been wet; he has catched cold to be sure; and that might occasion his death." Upon that I examined the stockings, and there was no mark or appearance of their having been wet.

Q. I presume that you, sir Theodosius, Mr. Donellan, and the family dined together at the same table? A. Yes.

Q. For some time before the death of sir Theodosius, had there been any intention in you and the other part of the family not to eat of the same dish that sir Theodosius eat of? A. We ate of the same dishes.

Q. Was there any fear or apprehension entertained by you, or by any person else expressed to you, of your being in danger of being poisoned? A. Mr. Donellan recommended to me not to drink out of the same cup, because he was affected with a venereal disorder, nor to touch the bread he did, because there might be arsenic about his fingers, as he used to put arsenic for his fish.

Q. But no such attention was paid as to things brought to table to eat? A. No.

Lady Anna Maria Boughton, cross-examined by Mr. Newnham.

Q. When was it that your ladyship and sir Theodosius went to Bath? A. The 1st of November, 1778.

Q. Did you go upon a visit to captain Donellan and his lady? A. They asked me to go.

Q. When did you hear captain Donellan say that your son was in a bad state of health, how long before his death? A. He often talked about it for three weeks or a month before the time of his death.

Q. That was only after he had been attended by Mr. Powell for a recent complaint, but before that you was pleased to say Mr. Donellan often expressed to you that sir The. was in a bad state of health? A. Yes, that he was in a bad way, or that something or other would happen to him.

Q. How long before was that? A. That was about a fortnight or three weeks before.

Q. Had not you yourself apprized Mr. Donellan and his lady, long before this, that your son was in a bad state of health? A. I had said that my son had been ill of a particular disorder.

Q. Had not you written to Bath in the year 1777 and in 1778, "that his fine complexion was gone, and he was in a very bad way"? A. I said I was afraid he was in a bad way, for his complexion was altered.

Q. I quote your words, "His fine complexion was gone"? A. Yes.

Q. At what time did you go to Bath? A. The 1st of November 1778.

Q. You had previously informed Mr. Donellan that your son was in a bad state of health? Yes.

Q. Sir The. went with you to Bath? A. Yes.

Q. Do you recollect a quarrel that happened between sir Theodosius and a gentleman at Bath? A. Yes, and Mr. Donellan interfered to prevent any thing happening.

Q. Does not your ladyship recollect a quarrel your son had at Rugby? A. Yes.

Q. Pray, who was sent for on that occasion? A. Mr. Donellan.

Q. Did not your ladyship go to Mr. Donellan's room door, and early in the morning press him to go over immediately? A. Yes.

Q. Did not you put the letter under the door? A. I wrote a letter, and had it put under the door, desiring him to go to Rugby, on account of a quarrel that had happened there.

Q. Did Mr. Donellan interfere and prevent any mischief happening there? A. He told me he did.

Q. Now, as to a third quarrel; whether he had not another quarrel with a gentleman at Daventry? A. They were both at Rugby.

Q. With a Mr. Wildgoose of Daventry, at Rugby? A. Yes.

Q. Was there not a quarrel with Mr. Chartres? A. Yes, at that time I believe, but I am not certain.

Q. Don't you recollect your son telling you that he went up at Newbold to the church steeple, and that if it had not been for Mr. Donellan, who caught him in his arms, he must have broke his neck? A. He did not tell me that.

Q. Did not he tell you he went up to the top of the church? A. Yes, but he did not tell me about being in any danger.

Q. Did not your ladyship, when he told you he had met with an accident and an escape, inquire into the particulars of it? A. I don't remember that he did tell me so.

Q. Do you remember no circumstance; don't you remember his mentioning that part of the church tumbling down when he was at the top of the church? A. No.

Q. Did not you return home together in the coach, and did not he mention it in the coach to you that he had been at the top of the church, and had fallen down in going up to the weathercock? A. I don't remember any thing of it.

Q. What time in the morning was it that your ladyship arose on the 30th of August? A. About six o'clock, I believe.

Q. On the day before you said sir Theodosius had been fishing? A. Yes.

Q. What time did he return home? A. At a little after nine o'clock, I believe.

Q. Did not your ladyship express some anxiety about his being out so late? A. I sent to him, he did not come; I said, "Tell him I want to speak with him."

Q. Do you recollect whether Mr. Donellan was, or not, gone to bed before sir Theodosius returned? A. I believe he was.

Q. Was not your ladyship and Mr. Donellan to ride out together the next morning? A. The prisoner asked me to go with him to the Wells. I agreed to go.

Q. Did not Mr. Donellan ask your ladyship, under the window, if you was ready? A. As I passed by the window that looks into the court, I heard Mr. Donellan call out, "Is your ladyship ready to ride out?" I said, "I shall be ready in about a quarter of an hour, I am going to put my things on." He said he would go to the Wells.

Q. That is after you left your son's room, when you thought he was going to sleep? A. Yes.

Q. How happened it, after your son had had these convulsive appearances, and had frightened your ladyship so much, that you did not at that time disclose to Mr. Donellan that he was in that condition, and you could not ride out? A. I thought he appeared as if he was going to sleep; it went off, and he seemed going to dose; so I imagined it was only his violent efforts to prevent bringing up the physic.

Q. You said it was in less than ten minutes after he took the medicine that those appearances came upon him? A. In two minutes and a half, or less.

Q. Did your ladyship give sir Theodosius his physic upon the Monday? A. No.

Q. You was not in the habit of giving it to him? A. Now and then I did.

Q. You recollect his saying it had a very nauseous taste? A. Yes.

Q. And a very nauseous smell? A. An ugly taste and an ugly smell.

Q. Did your ladyship ever mention, when examined before the coroner, this fact, that Mr. Donellan said, "I should not have known what I should have done, if I had not thought of saying that I did it to put my finger in to taste?" A. I did mention this before the coroner. My evidence was, he said, that I told him of his washing it. I asked him why he did so. He said he did it to put his finger in to taste.

Q. I asked your ladyship whether you disclosed before the coroner, that Mr. Donellan told Mrs. Donellan, in your hearing, that if he had not thought of saying that he did it to put his finger in to taste, he should not have known what to have done. Did you mention that circumstance before the coroner? A. Yes.

Q. And swear it? A. Yes.

Q. I believe you was examined a second time; was it upon the first or second examination? A. I am not certain.

Q. Was your examination read over to you before you signed it? A. Yes.

Q. I wish to ask your ladyship again whether this circumstance was disclosed in your evidence? A. I said he told me that he did it to taste.

Q. Your examination was read. There is no such thing as that contained in it. Did you mention the circumstance of the coachman being sent for into the parlour, and Mr. Donellan's asking him if he did not remember his going out at the iron gates at seven o'clock in the morning? and upon the servant's answering in the affirmative, Mr. Donellan's saying, "Will, now you are my evidence?" Was that mentioned by your ladyship before the coroner? A. I mentioned it to Mr. Caldicot, but whether I mentioned it before the coroner I cannot remember.

Q. Tell me the analogy, if you can, between the conversation that Mr. Donellan had with Mrs. Donellan in your presence, and his immediately sending for the coachman to know if he was up at seven o'clock or no. Did any conversation pass that led to that? A. Not that I know.

Q. You said something about Mr. Donellan's mare. One of the servants informed you that the mare was about the house. In point of fact, did not the servant go upon Mr. Donellan's mare to fetch Mr. Powell? A. I was not in the yard to see.

Q. Do you not know that as a fact? A. I did not see him go.

Q. Did you see him return? A. No, I did not.

Q. You told Mr. Howorth that Mr. Donellan put the bottle a second time into the hands of Sarah Blundell; was that circumstance disclosed in your evidence before the coroner? A. I do not recollect.

Q. Whether you don't know that sir Theodosius did amuse himself in laying poison for fish? A. Sir Theodosius did sometimes amuse himself in laying poison for fish.

Q. Where was it he put those things that he used to amuse himself with? A. I won't mince the matter.

Q. Don't you know of his buying large quantities of arsenic? A. He sent for a pound, and after his death a quantity of arsenic was found in his closet.

Q. Where did he use to keep that? A. In his inner closet.

Q. Which was sometimes locked? A. Mostly.

Mr. Howorth. You have been asked of instances of friendship shown by Mr. Donellan to your son: what was Mr. Donellan's general behaviour for some months before he died? did he treat sir Theodosius with respect, friendship, and tenderness, or otherwise? A. About a fortnight before my son's death I heard——

Court. Have you heard your son say any thing about Mr. Donellan's behaviour at the time when he gave you the relation mentioned by Mr. Newnham? A. They used to have words, to be angry with each other; they did not in general live in friendship and intimacy.

Mr. Newnham. It was your ladyship's house? A. Yes.

Q. I presume they had those sort of words that occasionally happen in all families, more or less? A. I paid no great attention to it.

Court. At the time you mentioned when you came down into the parlour, Mr. and Mrs. Donellan were both there? A. Yes.

Q. How long had Mr. Donellan been gone out of the room where sir

Theodosius died before you went into the parlour? A. Not long; I went into my own room first.

Q. After you got into the parlour, was there any conversation between you and the prisoner, previously to his saying you had been pleased to take notice of his washing the bottles? A. I do not recollect any, but he was talking to Mrs. Donellan.

Q. Was that spoken in a passion or resentment, or how? A. Rather in a way of resentment.

Catharine Amos sworn—Examined by Mr. Geast.

Q. Did you live at Lawford Hall at the time of the death of sir Theodosius Boughton? A. Yes.

Q. In what capacity? A. I was cook.

Q. Was you sent for by lady Boughton? A. I was sent for to my lady by the other maid, Sarah Blundell, who is dead; was called up-stairs into that room where sir Theodosius lay.

Q. When you came into the room, in what situation was sir Theodosius Boughton? A. He did not stir hand or foot, but frothed at his mouth. I wiped the froth four or five times from his mouth.

Q. Was the body motionless? A. The stomach heaved very much.

Q. Was there any noise? A. He gurgled at the throat.

Q. Give an account of any other circumstances that you observed. A. I did not observe any thing more.

Q. Where did you go to from thence? A. I went below stairs about my work; my work lay below stairs.

Q. How long afterwards was it before you saw Mr. Donellan? A. It might be about a quarter of an hour. I saw him in the passage; Mr. Donellan said, "Sir Theodosius was out very late over-night a-fishing; that it was very silly of him, as he had been taking such physic as he had been taking of before time."

Q. That is before that time? A. Yes.

Q. Did he give any reason why he had been out so late a-fishing? A. No.

Q. Did he say any thing more at that time? A. Not to the best of my knowledge.

Q. Did you see Mr. Donellan the day that the body was opened? A. Yes.

Q. What did Mr. Donellan say at that time? A. He said that there was nothing the matter; that it was a blood vessel had broke which had occasioned sir Theodosius' death.

Q. Did Mr. Donellan bring any thing to you at or about the time of sir Theodosius' death. A. No.

Q. At any time before his death? A. No, nothing at all.

Q. Did he never bring you any thing for any purpose? A. No.

Q. Was any thing brought to you by Mr. Donellan within a fortnight or three weeks before the death of sir Theodosius Boughton? A. No.

Counsel for the prisoner to lady Boughton. Did sir Theodosius Boughton speak at all after he had taken the medicine?

Lady Boughton. Not at all.

Counsel to Catharine Amos. You said you was cook-maid? A. Yes.

Q. Was the oven under your direction? A. Yes.

Q. Was any thing brought to you at any time? A. Yes, a still.

Q. Who brought it? A. Mr. Donellan.

Q. When was it? A. Some time after sir Theodosius' death.

Q. How long after? A. To the best of my remembrance, it might be a fortnight.

Q. What was there in it? A. Nothing, it had been washed. He desired me to put it into the oven to dry it, that it might not rust; I said, if I put it in there, it would unsolder it, as it was made of tin.

The Rev. Mr. Newsam sworn—Examined by Mr. Digby.

Q. Did you see captain Donellan at any time, and when, before the death of sir Theodosius Boughton? A. On the Saturday preceding sir Theodosius' death, I saw him at Lawford Hall.

Q. Had you any conversation with him? A. I had.

Q. Relate what that conversation was. A. He informed me that sir Theodosius was in a very ill state of health; that he had never got rid of the disorder that he had brought with him from Eton, but rather, in his opinion, had been adding to it; that he had made such frequent use of mercury, inwardly and outwardly, that his blood was a mass of mercury and corruption; that he had had a violent swelling in his groin, which they were endeavouring to bring to a head, but he was so obstinate that he would not live well enough to do it; that they were fearful it would return into his blood, for at that time it was at a crisis; that he had frequent swellings in his throat, and his breath was so offensive that they could hardly sit at table to eat with him; that his intellects at intervals were so much affected, that nobody knew what it was to live with him. My answer was, "that if that was the case, I did not think his life was worth two years' purchase." He replied, "Not one." I asked him what advice he had. He told me, he was attended by Mr. Powell, the apothecary of Rugby; and that his medicines were made up by Mr. Powell from a prescription of Mr. Kerr's, which he had while he was at Mr. Jones; that he had given him a medicinal book called the Family Physician, which he was very fond of consulting.

Q. Were you well acquainted with this family? A. Very well

Q. Perhaps you can tell, from the appearance of sir Theodosius Boughton, what was the actual state of his health at this time, and for some time before? A. He looked like a man to all appearance in health; he did not look so florid as he had done.

Q. Had you any reason, from his countenance, spirits, or any thing else, to imagine him to be in a bad state of health? A. He was in good spirits, and looked very well; but did not look so florid as he had done.

Q. Do you know upon what terms captain Donellan and sir Theodosius Boughton lived for some time preceding the death of sir Theodosius? A. That I cannot speak to; I had been absent from that country the four preceding months.

The Rev. Mr. Newsam, cross-examined by Mr. Green.

Q. Sir Theodosius Boughton had been under the care of Mr. Kerr, had he not? A. I believe he had, whilst he was with Mr. Jones.

Q. Mr. Kerr is, I understand, an eminent surgeon at Northampton? A. Yes.

Q. Mr. Donellan told you Mr. Powell made up his medicines by the prescription from Mr. Kerr? A. Yes.

Q. Whether you had not a letter from Mr. Donellan? A. I had.

Q. Have you it in your pocket? A. It is in court.

Q. When did you receive it? A. I cannot recollect; it was one of the days, I believe, when the coroner's jury were sitting; when the body was opened, I gave it up the morning of that day.

Mr. William Kerr sworn—Examined by Mr. Howorth.

Q. You are, I understand, a surgeon, and live at Northampton? A. Yes.

Q. Do you recollect having attended sir Theodosius Boughton when he was at Mr. Jones? A. I do.

Q. Was the disorder, for which you attended him at that time, completely cured or not? A. I really saw no disorder; there was upon the prepuce or glands, I do not recollect which, a small wart or excrescence, very immaterial indeed; it was so slight, that I did not consider it as a subject of medicine at all. I ordered some lotion to wash it with, and nothing else, and dissuaded him from the use of medicine.

Q. Was the state of his body such that you judged it necessary to give

him a prescription to take medicines by? A. I gave him a prescription for the lotion, but none for internal medicines.

Q. When he went from under your care, you considered him as by no means disordered? A. I considered him as having no venereal complaint.

Mr. Kerr, cross-examined by Mr. Newnham.

Q. In common parlance, is not a lotion a medicine? A. Certainly.

Dr. Rattray sworn—Examined by Mr. Balguy.

Q. You are, I believe, a physician of Coventry? A. I am.

Q. Do you remember, on the 4th of September last, receiving any message from any person, and from whom, to come to Lawford Hall? A. On the 4th of September, in the afternoon, I received an anonymous note (I mean a note not signed by any person), desiring me—I forget the particular phrase used—but it was to go to Lawford Hall, in order to open the body of sir Theodosius Boughton.

Q. Have you got that note? A. No, I did not preserve it; as it was not signed, I conceived it immaterial. The note imported that I was likewise to bring Dr. Wilmer with me, by which I understood Mr. Wilmer the surgeon. Mr. Wilmer happened to be out of town that afternoon. As soon as I could find him, and bring him back to Coventry, we set out, and went there together.

Q. At what time in the evening was it when you went? A. I cannot say the exact hour; it was getting dark, and it was dark when we arrived there.

Q. When you arrived there, did you or not find captain Donellan? A. The first object I saw was captain Donellan in the passage, with a candle in his hand; he was amongst the first persons in the house that received us, and in the hall, I think.

Q. What passed between captain Donellan and you upon your coming there? A. As captain Donellan lighted me into the parlour, he said, "*Have you* heard from or seen sir William Wheeler?" I said I had not. I believe he afterwards added, "*I rather expect sir William Wheeler will be here;* or if he does not come, I shall hear from him."

Q. Did he add that he expected to hear from him, or expected him to be there? A. Yes, that he expected either one thing or the other.

Q. Did he say any thing further? A. We were asked to eat of what they had in the house; they had supped; and the coffin in the mean time was ordered to be unsoldered, and we begged we might know when that was done. As soon as we had ate a little, they came and informed us that the coffin was open.

Q. But before you went to see the corpse, after the coffin was unsoldered, was there or not any letter shown you by captain Donellan? A. I saw a letter from sir William Wheeler, in answer, as I understood, to a message which captain Donellan had sent, requesting of sir William to come and see the body opened.

Court. Was that letter shown you by the prisoner? A. Yes, when I came into the hall. Mr. Powell, the apothecary, stood by a great table reading a letter; captain Donellan turned it up, and saw the direction was to him. Mr. Powell said, "by mistake he had opened it."

Q. Did you read it? A. I read part of it; it was that part of the letter in which sir William excused himself from coming to Lawford Hall, saying he conceived no person was proper to be there but the surgeon and physician sent for. No name was mentioned in particular, only surgeon and physician.

Q. Did captain Donellan at that time speak of any other letter he had received from sir William Wheeler? A. He searched in his waistcoat pocket about that time for a letter; but instead of it, pulled out a cover. By a slight glance I had of it, I thought the direction was sir William Wheeler's handwriting; but I never saw any other letter but this I have just spoken of.

Q. Can you tell whether this (showing a letter to the witness) is the

letter which captain Donellan then showed you? A. Yes; here are the very words I mentioned, surgeon and physician, in it. I just glanced it over; it was late, and I wished to get over such little matters as these.

Q. In consequence of having seen that letter, what did you and Mr. Wilmer proceed to do? A. After some little conversation about that letter, captain Donellan said, "The letter was exceedingly polite; *that the first letter he received was much the same as this.*" Captain Donellan, at the bottom of the stairs, said, "*Gentlemen, you will excuse me*," or to that effect; upon which we walked up-stairs. Mr. Wilmer went in first, I believe; he came out of the room testifying some surprise as I entered the door; I immediately entered, and saw the body for the first time.

Q. Did you use any expressions of any sort, at the time of your seeing the body, to captain Donellan? A. I went into the room, and looked at the body several times, and came out to Mr. Wilmer; he seemed to think it would answer no purpose to open the body at that time; and as we asked captain Donellan "for what purpose it was to be opened," he said "it was for the satisfaction of the family," we thought it at so late a period, and it being only for that purpose, that it was of no use; therefore we waived it.

Q. Had captain Donellan said the opening it was for the satisfaction of the family? A. Yes; he told Mr. Wilmer so, and I think, when I went up, the same speech was repeated to me.

Q. Did he mention any other purpose for which the body was to be opened, except the satisfaction of the family? A. None to me, that I recollect.

Q. Did he at any time intimate to you any suspicion of poison? A. No, nothing of the sort.

Q. In consequence of this you did not in fact open the body? A. We did not open the body.

Q. How soon after this was it that you was again sent for upon this melancholy occasion? A. On the 9th of September; I think it was on a Saturday.

Q. Who did you receive a message from at that time? A. I really do not know: I received a message by some strange roundabout way, in consequence of which I went; but I don't know who sent it. Mr. Wilmer and I went in company. We met Mr. Bucknill, Mr. Powell of Rugby, and Mr. Snow of Southam: those were all the physical people, I believe. Mr. Bucknill opened the body.

Q. Where did you meet at that time? A. In the church-yard at Newbold.

Q. The body had there been interred? A. It had been in the vault at Newbold, as I understood.

Q. What passed at that time? A. We proceeded to the opening of the body as soon as we conveniently could, and inspected, as far as we were able, the appearances of the body.

Q. What were the material appearances that struck you at that time? A. The material appearances were—in the first place, the body appeared, upon a general view, swollen or distended a good deal; the face, of a round figure, extremely black, with the lips swelled and retracted, and showing the gums; the teeth black, except a small white speck on one of the fore teeth; the tongue protruding beyond the fore teeth, and turning upwards towards the nose; the blackness descended upon the throat, gradually diminishing as it got towards the breast, and the body was spotted in many parts, but not very material. There was another circumstance which, for decency, I have omitted, but, if called upon, I am ready to mention.

Mr. Balguy. That circumstance is not at all material. I meant to ask you merely to such appearances as were material. Were there any appearances upon the body sufficient to cause or confirm an opinion you may by-and-by give upon the subject? A. We proceeded to open the body; and in dissecting the skin, the fat appeared in a dissolving state, a little watery: on

getting into the cavity of the belly, the bowels in the lower belly seemed to put on an appearance of inflammation. I choose to make use of the vulgar term appearance, in order to convey a general idea of the appearance things in that state generally put on.

Q. Was it so with the stomach too? A. Yes; the orifices of the stomach, and the small arch of the stomach; the heart, upon opening the pericardium, the membrane which encloses it, appeared to be in a natural state; the lungs appeared what I call suffused with blood, looking red, and spotted in many places with black specks, and on the back part the blood had settled in a deep red colour, almost approaching to purple; the diaphragm was in the same state; and, in general, upon the depending surfaces of the body the blood was settled in the like manner; the kidneys appeared black as tinder, and the liver much in the same state. These, I think, are most of the appearances I need mention upon the present occasion.

Q. Have you heard the evidence of Mr. Powell, the apothecary? A. I have.

Q. And have you heard the evidence of lady Boughton? A. I have.

Q. Now, from the evidence of Mr. Powell and the evidence of lady Boughton, independent of appearances, for I would have you forget them for the present instant, what was, in your judgment, the occasion of sir Theodosius Boughton's death? A. Independent of the appearance of the body, I am of the opinion that the draught, in consequence of the symptoms which succeeded the swallowing of it, as described by lady Boughton, was poison, and the immediate cause of his death.

Q. Please to smell upon that bottle; what, in your judgment, is the noxious medicine in that bottle? A. I know the liquid; it is a distillation of laurel leaves, commonly called laurel water.

Q. You have heard Mr. Powell's account of the mixture he prepared for sir Theodosius Boughton; was that mixture innocent and proper? A. In my opinion, it was perfectly innocent.

Q. You have said that, in your judgment, laurel water is contained in this bottle? A. Yes.

Q. Have you made any particular experiments upon the effects of laurel water? A. I have, several.

Q. You will please to relate the particular experiments you have made, and the appearances in consequence of those experiments. A. Mr. Wilmer and I made experiments together: our first experiment with laurel water was upon a middle-sized dog; I held his mouth open, and there was, I believe, nearly two ounces of laurel water poured down his throat; I held the dog between my knees; in half a minute, as nearly as I can guess, he dropped dead to the ground, without any motion except a tremulous motion once or twice of the lower jaw. The next animal on which I tried the laurel water was, likewise in company with Mr. Wilmer, to an aged mare; we gave, at repeated intervals, out of a horn, I believe, about a pint and a half of laurel water; in about two minutes she was precipitated to the ground with her head under her, and tumbled on her back, kicking violently; she afterwards lay without kicking, but seemed convulsed, her eyes rolling about, rearing up her head as if in agonies, gulping at her stomach as if something lay there exceedingly offensive to her, and that instant, and during the whole time she lived afterwards, heaving in the flanks in the most extraordinary manner; and at the end of fifteen minutes she expired. After this, in company with Mr. Ewbank, of Coventry, I gave to a cat about a spoonful of laurel water, which I had myself seen distilled; it was pale and limpid as pure distilled waters, and seemed very weak. The cat, though I believe she had not half the quantity I intended she should have taken, died in three minutes.

Q. What quantity did you pour down the cat's throat? A. About a spoonful, about half an ounce. At Southam, the beginning of this week, I

gave, in presence of Mr. Snow, to another aged horse about a pint of laure' water, distilled by Mr. Snow. Upon his receiving into his stomach the first horn full, which was a small one, no bigger than we used in the former experiment, he dropped to the ground.

Court. What was the quantity that horn held? A. I suppose three or four ounces. It was impossible to give the animal the whole of it; full half was spilt. I conceived it to be very strong, and desired Mr. Snow would give her no more at that time, in order to try the strength of it. The horse dropped; he endeavoured to raise himself up, but could rise no farther than by setting himself upon his buttocks like a dog: I perceived he had entirely lost the use of his hinder parts. We then gave him another horn full, which in its turn knocked him down very soon; and at intervals we gave him several horns full, to the amount of about a pint in the whole; and at the end of twenty-eight minutes he expired, violently convulsed, groaning, his tongue lolling out of his mouth; and indeed the first horse's tongue had a very extraordinary appearance, for it darted backward and forward in the manner of a dart, but this horse lolled his tongue out like a dog when running. In both the horses the artery in the neck beat much, even after the animal had ceased to breathe, except we call the motion of the lower jaw, a kind of gasping, breathing. I saw all the bodies opened, and in all of them there was violent distension of the veinous system, of the whole veins in the body, the stomach, bowels, lungs, and so on. The veins were distended and full of blood, the lungs appeared red and suffused. I said before that I did not use the term *inflammation* in any other way than to convey the vulgar idea, the appearance of red colour given to any part by blood. The lungs suffused with blood, looking very red, and in the first horse it was the colour of a deep pink; very different, I conceive, from the natural colour.

Q. You have smelled to the bottle which has the laurel water in it; do you know any thing in medicine that corresponds in smell with that mixture? A. I do not know any medicine that smells like it.

Q. Does the smell described by lady Boughton, something like bitter almonds, convey an idea of that mixture? A. It does; and I have given the laurel water to many people to smell to, and they always described the smell to something like bitter almonds; I do not exactly know how they expressed themselves, but they meant to say that.

Q. In your judgment is the quantity that one of these bottles contains of laurel water sufficient to take away life from any human creature? A. In my opinion, it is.

Q. I have now got your opinion upon the subject, independent of any appearances you observed upon the body of sir Theodosius Boughton. Now are you, from these appearances, confirmed, or otherwise, in the opinion you have given? A. Confirmed in it so far as, upon the viewing a body so long after the death of the subject, one can be allowed to form a judgment upon such appearances.

Dr. Rattray, cross-examined by Mr. Newnham.

Q. If I do not misunderstand you, doctor, the last account you gave in answer to the question, whether you are confirmed in this opinion by the appearances, you said yes, so far as you might be allowed to form an opinion, viewing the body so long after the death of the subject? A. Yes, so far as we may be allowed to form a judgment upon appearances so long after death.

Q. By your putting it in that way, do you or do you not mean to say that all judgment upon such a subject, in such a case, is unfounded? A. I cannot say that, because from the analogy between the appearances in that body and those distinguishable in animals killed by the poison I have just mentioned, I think them so much alike, that I am rather confirmed in my opinion with respect to the operation of the draught.

Q. Those bodies were instantaneously opened? A. Yes, so much so that there was the peristaltic motion of the bowels upon their being pricked.

Q. This was upon the eleventh day after sir Theodosius' death? A. Yes.

Q. What was the appearance of the body when you first went to Lawford Hall? A. At the first time I saw the body, what I did see of it, the face, was in the condition I have described, with a maggot crawling over its surface: it was black, as I have described; it was quite in the same state; in short, I saw no difference the last day, excepting the maggot was not upon it then.

Q. Were you or not offended by a violent stench as you approached the dead body? A. We were.

Q. Had not putrefaction considerably taken place? A. I believe it had.

Q. Did Mr. Wilmer observe the same appearances with you? A. Yes, I believe so; I have no reason to doubt it.

Q. What was your reason at that time for not opening the body? A. I have just said, the body seemed to us to be in such a very disagreeable state that we did not like to enter into the investigation of it, not knowing that any particular purpose was to be answered by it, except the satisfaction of the family.

Q. At that time, were not you and Mr. Wilmer sent for, for the purpose of opening the body? A. Yes; it was so expressed in the notes.

Q. Was not your reason at that time—whether you were erroneous in your judgment or not, is another thing—but was not your reason for declining opening the body, that you conceived the opening it could answer no useful purpose? A. At that time we were of that opinion.

Q. When you went back from Lawford Hall to Coventry, was you or not desired, or did you and Mr. Wilmer undertake, to apprize sir William Wheeler of this fact? A. I did not undertake it; I believe captain Donellan said to me, at going out of the door, "Shall you see sir William Wheeler?" or words to that effect. I said I believed not, I did not think I should, for I had an engagement upon my hands the next day following, which I must necessarily attend. It was to go to Brookswell, and I stayed all night from home; so I could not go, and I did not understand from the letter that it was incumbent upon me, in point of politeness, to wait upon sir William Wheeler.

Q. Mr. Wilmer's name was mentioned? A. "Surgeon and physician" were mentioned, but no name.

Q. Was Mr. Wilmer present at that time? A. We were going out at the door on our return home.

Q. Was any thing said to Mr. Wilmer in your presence? A. Not that I know, or at present recollect.

Q. When was it you did see sir William Wheeler? A. On the 4th of September we went, and returned without opening the body: the next day, the 5th, I was particularly engaged, as I before said; when I returned home on the morning of the 6th, I was told that captain Donellan's servant had been in quest of me and Mr. Wilmer; afterwards I saw a letter from captain Donellan, "desiring either me or Mr. Wilmer, or both of us, to go to sir William Wheeler, and inform him of the circumstance that happened at Lawford Hall on the night of the 4th."

Court. When was it you saw that letter? A. On the 6th; and it was on the 6th I saw sir William Wheeler at the Black Dog; at least, there was but one intervening day, and I think it was the 6th.

Q. The next time you saw the body was on the 9th of September, which was the eleventh day after the death? A. I think so

Q. Does not putrefaction increase very much in the space of five or six days in a hot summer? A. I should think it must certainly increase.

Q. Was not the body in a very high state of putrefaction when you saw it? A. Upon the shroud being removed, the body appeared to me much

fairer than I expected; I expected to have seen it in a very black putrefied state, but the external appearance was not quite so highly so as I expected.

Q. You mentioned that the body was much swelled? A. It was swelled.

Q. Appearing upon a gangrene, I suppose? A. It rather put on the appearance of gangrene.

Q. I understand you have set your name to a description of certain appearances that met your eye when you examined the body; I mean your examination? A. I have, undoubtedly.

Q. Did you, or did you not, concur with Mr. Wilmer as to the appearances of the body? A. In general we did.

Q. You set your name to that examination? A. I did not set my name to any thing but my own examination.

Q. Wherein the appearances are particularly described? A. They are not particularly described; there is something said about the stomach and bowels.

Q. For what purpose then did you attend there? A. I did not know that it was necessary before a coroner's jury to enter into the particulars; I was quite a novice in the business.

Q. Do you mean a novice in the mode of dissection? A. No, in the business before a coroner.

Q. Did the account you set your name to contain a true description of the appearances that met your eye upon that occasion? A. So far as they went, it did.

Q. Did you ever hear or know of any poison whatever occasioning any immediate external appearance on the human body? A. No, no immediate external appearances in the case of vegetable poisons, except what I have heard; but they have not fallen under my own knowledge.

Q. So far for the external appearance. Now, I shall be glad to know whether all the appearances you speak of in the face, the protuberance of the tongue, and the lips being swelled and retracted, whether those are not all signs of putrefaction? A. I really don't know that they are.

Q. I do not mean to give you any offence; but I beg leave to ask, whether you have been much used to anatomical dissection? A. I have been as far as persons not particularly intended for anatomical pursuits. I am not a professor of anatomy.

Q. Did you ever attend the dissection of a human body that was poisoned, or that was supposed to have been poisoned? A. Never.

Q. From the external appearances of the different parts of the body, you draw no kind of conclusion or inference, and form no opinion. A. No, I don't form any strong opinion from them

Q. How were the appearances when the cavity of the abdomen was opened? A. I have described them in general.

Q. Not being an anatomical man, it has slipped my memory; will you please to repeat it? A. I believe I did not before mention the omentum, or caul, that was suffused with blood of a brownish red; the stomach and bowels appeared in general red, which is vulgarly called an inflammation.

Q. Might that not be owing to a transfusion of blood?

Dr. Rattray. From what cause?

Mr. Newnham. From putrefaction.

Dr. Rattray. Do you, by a transfusion of the blood, mean the passage of the blood from the arteries into the veins

Mr. Newnham. Yes.

Dr. Rattray. I cannot think it could arise from putrefaction.

Q. That is your opinion? A. It is.

Q. Did you look at the stomach? A. Yes.

Q. As sir Theodosius Boughton is represented to have died in a few minutes after taking this medicine, did you, with correctness and attention, examine the stomach? A. The contents of the stomach were about a spoon

ful and a half, or a couple of ounces of a slimy reddish liquor, which I rubbed between my finger and thumb, and it contained no gritty substance that I could perceive.

Q. Is it not usual to find some such quantity of liquor in the stomach? A. The stomach after death must contain something, more or less, according to different circumstances.

Q. You said the stomach, and the orifice of it, and the small arch of it, bore the appearance of inflammation; pray, is not inflammation and appearance of inflammation much the same thing? A. All that I have to say upon the present business is, I perhaps don't know the cause of inflammation; but there is an appearance of inflammation upon the stomach and bowels, owing to an injection of blood into the veinous system; the veins, being full of blood, put on a red appearance.

Q. If you will not take upon you to say what is the cause, what are the signs of inflammation? A. An appearance of redness sometimes, not always attended with pain, and sometimes throbbing.

Q. Did you pursue your search through the bowels? A. No, I cannot say I did, nor did I think it in my power.

Q. How far did you pursue your search in the stomach? A. We examined the contents of the stomach; we took the stomach out, but in taking it out, a great part of the contents issued out of the bowels next to it; and the smell was so offensive, I did not choose to enter into that matter.

Q. Whether a pursuit or inquiry, from an inspection through the bowels, was not as likely to have led to a discovery of the cause of the death as any other part of the body which you did examine? A. I do not believe a pursuit through the whole extent of the bowels could have led to any discovery in these circumstances.

Q. Are not the bowels the seat of poison? A. When it passes in there, it no doubt affects the bowels.

Q. Then why did you not examine into the contents of the bowels? A. I did not think it in the power of any one to examine into the contents of the bowels, their contents being so strong and disagreeable.

Q. Whether you do not form your judgment upon the appearances? A. Not altogether; they corroborate my opinion upon the effect of the draught.

Q. Did you or did you not know the contents of the draught Mr. Powell had prepared when you was examined before the coroner? A. Yes, I did.

Q. And you knew, from the account given you, how long sir Theodosius Boughton lived after he took that draught? A. I took my information from lady Boughton.

Q. Then, whether many reasons have not occurred, subsequent to that time, considerably to induce you to form your judgment that he died of arsenic? A. Not subsequent to that time; at that time I did think he died of arsenic, but I am now clear that I was then mistaken.

Q. Why may you not be mistaken now? A. I cannot conceive that, in these circumstances, any one can be mistaken as to the medicine; from the sensible qualities described by lady Boughton, I believe it to be of that nature.

Q. Did not you know at that time the symptoms described by lady Boughton? A. I did.

Q. Then was not your judgment at that time as ripe for information as it is now? A. It is now since I have received the information.

Q. Whether you did not, after you heard lady Boughton describe the symptoms, and after you saw the body opened, give it as your opinion that he died of arsenic? A. I have had such an opinion.

Q. And have declared so? A. I did.

Q. Was there or was there not a large quantity of extravasated blood in the throat? A. On each side of the lungs there were.

Q. About what quantity? A. I think not quite a pint on each side the right and left lobe of the lungs.

Q. Would not the rupture of a blood vessel occasion death? A. The rupture of a blood vessel would undoubtedly have occasioned death, but it would not in my apprehension have been attended with the same appearances.

Q. Might not a blood vessel, in an effort to reach, be broken? A. I should conceive, that if, in an effort to reach, a blood vessel of that magnitude had been ruptured, he must have died immediately without convulsions.

Q. But supposing a person recovering from convulsions, for he is stated to be inclined to sleep? A. It is a case I am not supposing probable.

Q. Is it possible? A. Every thing is possible under God.

Q. Did you never hear of any person dying of an epilepsy or of an apoplexy with symptoms like those, being in convulsions? A. I do not think the symptoms described as having taken place in sir Theodosius Boughton are like to an epilepsy.

Q. Nor an apoplexy? A. They were entirely, in my opinion, the effects of the draught.

Q. Might not an apoplexy or an epilepsy be accompanied with those symptoms? A. I never saw either of them attended with a heaving at the stomach.

Q. When respiration grows feeble, is it not a common case that the muscles of the throat are very much relaxed? A. All the effects that succeeded the draught, I believe, were the consequences of it; and if the muscles were relaxed, or foam proceeded from the mouth, they were in consequence of it.

Q. Is it not commonly the case with persons who die of almost every disorder? A. Very often.

Q. Are not the muscles of the throat instrumental in respiration? A. So far as to the passage of the air in and out.

Q. Is it not a very common appearance a few minutes before death, when respiration grows feeble, for froth to issue from the mouth? A. No, not commonly; I have seen it in epilepsies.

Q What was your reason for supposing at one time that the deceased died of arsenic? A. Every man is mistaken now and then in his opinion, and that was my case; I am not ashamed to own a mistake.

Q. Have you been very nice in your experiments; for instance, in the conveying the laurel water into the animals? A. If there was any want of nicety, the subject had less of it than I intended.

Q. When an animal, suppose a dog or cat, is striving to refuse a draught you are forcing into its mouth, whether it is not common for some part of the liquor to get into the lungs? A. If it did, it would make them cough, but be attended with no bad consequences, unless it was poison.

Q. Did you ever convey any poison immediately into the stomach?

Dr. Rattray. Do you mean by perforation through the ribs?

Mr. Newnham. Yes.

Dr. Rattray. I never have.

Q. Did you never convey any into the veins of an animal? A. I never have.

Q. Did you observe or smell that liquor which came out of the stomach? A. I could not avoid smelling it.

Q. Had it the same offensive smell? A. It in general had; one could not expect any smell, but partaking of that general putrefaction of the body; but I had a particular taste in my mouth at that time, a kind of biting acrimony upon my tongue. And I have, in all the experiments I have made with laurel water, always had the same taste from breathing over the water, a biting upon my tongue, and sometimes a bitter taste upon the upper part of the fauces.

Q. Did you impute it to that cause then? A. No, I imputed it to the volatile salts escaping the body.

Q. Were not the volatile salts likely to occasion that? A. No, I complained to Mr. Wilmer, "I have a very odd taste in my mouth, my gums bleed."

Q. You attributed it to the volatility of the salts? A. At that time I could not account for it; but in my experiments afterwards with the laurel water, the effluvia of it has constantly and uniformly produced the same kind of taste; there is a volatile oil in it, I am confident.

Q. Do not you understand that there cannot be any information at all obtained in consequenceof dissecting animals which have been destroyed by laurel water? A. I do not think that the operation of these sort of substances upon the inside of the stomach produce any violent appearances of redness; but in most of the animals I have seen, there have been small red spots inside, of the size of a shilling perhaps; but the effect in the trials I have made has been a driving the blood from the part of the body where it should be. I believe the effect of the poison is to empty the arteries in general, and push the blood into the veins; that is my opinion at present, so far as I have gone into the matter.

Q. But you was mistaken at first, relative to forming an opinion that the death was occasioned by arsenic? A. Yes.

Mr. Balguy. You say, that when the shroud came to be taken off the body, you found the body less offensive than you had expected? A. Less black.

Q. When you first saw the body on the 4th of September, did you or not take the shroud off? A. We did not.

Q. You saw nothing but the face? A. Nothing but the face.

Q. If, at that time, captain Donellan had insinuated to you any suspicion of poison, whether you would or not have taken the shroud from the body? A. I verily believe, had I known the tendency of the inquiry, I should have sat there for a month, rather than have left the body unopened.

Q. Should you at that time, if the suspicion had been disclosed, have proceeded to open the body? A. I should have attended the opening of it.

Mr. Newnham. I understand you to say, that when the body was opened, the external appearances did not contribute, in any way, to your forming a judgment one way or other? A. Nobody would attempt to form a judgment upon the external appearances altogether.

Mr. Bradford Wilmer sworn—Examined by Mr. Wheeler.

Q. You was sent for to Lawford Hall at the same time Dr. Rattray was? A. I was; I went there with Dr. Rattray.

Q. When first you came there, did you see captain Donellan? A. I did. He desired us to walk into the parlour: after we had some refreshment, we were told that the coffin was unsoldered, and we were desired to walk up-stairs.

Q. Was any thing said to you at that time as to the means by which sir Theodosius Boughton had died? A. Not the least in the world.

Q. Nothing said of poison? A. I never heard a word of poison.

Q. When you did go up-stairs, what part did you see of the corpse? A. Only the face.

Q. We have learned from Dr. Rattray that you did not proceed any farther; how happened that? A. The body was so extremely putrid, that I declared my opinion to Dr. Rattray that the proposed inquiry could give no sort of satisfaction.

Q. Supposing it had been communicated to you that sir Theodosius Boughton had died by poison, should you have been satisfied without opening it? A. I should then have opened the body at all events.

Q. You did not then open the body? A. I certainly did not.

Q. You afterwards did open it, at the time Dr. Rattray has spoken of? A. I was present at the opening of the body by Mr. Bucknill.

Q. Have you been employed in any experiments with Dr. Rattray? A. I have.

Q. Without going into every particular of Dr. Rattray's account, do you

and he concur in general as to the effect of that medicine? A. I wish you would be more particular in that question.

Q. Do you agree with Dr. Rattray in what he has said respecting those experiments at which you was present? A. I do in general; but as Dr. Rattray has not described the appearances which were visible upon the dissection of the horse, with your lordship's permission, I will read my minutes. "On the 20th of March, one ounce of laurel water was given to a young greyhound; while Dr. Rattray held the dog's mouth open, I poured the water into the dog's throat; as soon as it was swallowed, the doctor released its head, to observe the effect of the poison; when, to our great surprise, he fell down upon his side, and without the least struggle or any perceptible motion (except what the doctor has explained about the dropping of the lower jaw) expired. On the 22d of March, in the presence of sir William Wheeler, a pint and a quarter of laurel water was given to a mare aged twenty-eight years. Within a minute from the time it was swallowed, she seemed affected; her flanks were observed to heave much, and a trembling seized her limbs; in two minutes she suddenly fell down upon her head, and a short time after was very violently convulsed; the convulsions continued about five minutes; at the expiration of which time, she lay still, but her breathing was very quick and laborious, and her eyes much affected with spasms. At this time, four ounces more of the water were given her; after which she seemed much weaker, but without any more return of convulsions; and in about fifteen minutes from the time of her first seizure, she expired.

Q. After her first convulsion was she quieter? A. She was: "Upon opening the abdomen, a strong smell of laurel water was perceptible; the colon, one of the large intestines, was not altered from its usual appearance, but the small intestines appeared of a purple colour, and the veins were much distended with blood; the stomach contained some hay mixed with laurel water; its internal surface was not inflamed, except in a small degree near the lower orifice of the stomach; the lungs appeared remarkably full of blood; the small vessels upon their surface being as visible as if they had been injected with red wax."

Q. Whether you in general concur in sentiments with Dr. Rattray as to the effect of laurel water?

Mr. Wilmer. Do you mean upon the human body, or upon brutes?

Mr. Wheeler. Upon both. A. It has in four instances been fatal in the human body; I do not know it of my own knowledge, but from my reading.

Q. Have you any doubt of its being fatal? A. Not the least in the world.

Q. How do you apprehend the quantity contained in that bottle is sufficient to take away life? A. I imagine one bottle of that size, full of laurel water, would be sufficient to kill, in half an hour's time, any man in this court.

Mr. Bradford Wilmer, cross-examined by Mr. Green.

Q. Were there any symptoms in this case peculiarly different from the symptoms attending a case of apoplexy or epilepsy? A. The appearance of the body in the putrid state in which it was when I had the opportunity of observing it, could give no information to form an opinion upon respecting the cause of the death.

Q. Have you had any opportunities in your own experience of observing epilepsies? A. I have; they are either of two kinds, primary or symptomatic. It happens sometimes, that without the least previous notice, a man in the the most perfect state of health, as Suetonius says of Julius Cæsar, may in a moment be seized with the epilepsy, his senses will leave him, he will fall down, be convulsed, foam at the mouth, his tongue will be black, and he either may die or recover. As to the symptomatic epilepsy, I can speak from experience: a patient of mine had a violent pain and tumour in his finger; as soon as the pain, which gradually went up his arm, reached his armpit, he fell down epileptic and convulsed. But if, previous to an epilepsy,

the patient heave very much at the stomach, and show signs of sickness, I should conclude the cause of that epilepsy was in the stomach.

Q. Epilepsies proceed from various causes? A. Numerous causes.

Q. Will not the loss of blood occasion an epilepsy? A. I believe not.

Q. What quantity of blood was there in the stomach? A. I did not measure it; I concluded about two pints; it lodged in the cavity of the thorax.

Q. Might not that occasion convulsions? A. I do not know; but if I might be allowed to reason from analogy, I should conclude it would, for in all slaughtered animals, when the blood runs out from them in a full stream, they lie quiet, but they never die without convulsions. The loss of blood will evidently occasion convulsions.

Q. You was there upon the 4th and the 9th of September; did you find any reluctance or unwillingness on the part of the prisoner to the body's being opened? A. Not the least in the world.

Q. Did he not seem rather desirous of having it opened? A. I believe it was at his own request that a man was sent for to unsolder the coffin.

Q. Was the person sent for to unsolder the coffin before you came? A. He was sent for after we were at the house.

Q. Did the prisoner send for him? A. I think he sent for him.

Q. Was that the first or second time of your being there? A. At the first time, when I declined opening the body, not having had the least information from any part of the family that poison was suspected to have been administered to the deceased.

Q. That was on the 4th? A. It was.

Q. Was any thing said about your going to sir William Wheeler the next day? A. I heard a conversation between the prisoner and Dr. Rattray; I cannot, at this distance of time, speak accurately to matters which appeared then to me trifling; I believe he asked Dr. Rattray "whether he should see sir William Wheeler?" I think Dr. Rattray said, "He believed he should, and would give him an account of the business."

Q. Was you desired to go over to sir William Wheeler's next day? A. I was not desired to go over.

Q. Did you say that you should go over? A. Not that I recollect, though I may be mistaken.

Mr. Wheeler. From the appearances of the body, and after the evidence you have heard given, both by lady Boughton and the other witnesses, what do you attribute this gentleman's death to? A. After having heard lady Boughton's evidence, and therefore being acquainted with the symptoms which preceded the death of sir Theodosius Boughton, I am clearly of an opinion that his death was occasioned by a poisonous draught, administered to him by lady Boughton on the morning of his death.

Court. Is the heaving in the stomach or the belly a circumstance which attends an epilepsy? A. It is not.

Dr. Ashe sworn—Examined by Mr. Geast.

Q. You are a physician, and live at Birmingham? A. Yes.

Q. You have heard the evidence that has been given? A. I have.

Q. What, in your judgment, was the cause of the death of sir Theodosius Boughton? A. I think he died in consequence of taking that draught, after the taking of which he was seized in so extraordinary a manner.

Q. Mention the particular reasons you have for thinking so. A. It does not appear from any part of the evidence that has been this day given, that the late sir Theodosius had any disease upon him of a nature either likely or in a degree sufficient to produce those violent consequences which happened to him; neither do I know in nature any medicine, properly so called, which, administered in any dose, and in any form, could properly produce the same effects. I know nothing but a poison spreading in its operation that could be attended with such terrible consequences. As to the appearances of the

body upon dissection, they were certainly, as far as could be collected at that distant period from the time of the death, and in such hot weather, similar to those appearances which are found in the bodies of animals that are killed by poisons collected from vegetable substances, not from animal ones.

Q. Will you please to look at that phial. A. The vehicle of it is laurel water.

Q. Would that quantity be sufficient to cause death? A. I do not know how this is distilled, or how strong it may be, but I know it may be made in this quantity to destroy animal life in a few seconds. I do not know who distilled this, but I have made it frequently myself, and in such a degree of strength as to destroy animal life in a few seconds: if it is distilled enough to collect the essential oil, a tea spoonful of it would destroy animal life in a few seconds.

Court. If it was made on purpose? A. Certainly; I dare say as strong a poison might be made from bitter almonds as that.

Q. Do you or not, from the evidence you have heard, believe sir Theodosius Boughton died of poison? A. I do.

Court. You are not to give your opinion from the evidence in general, but upon the symptoms those witnesses have described. A. By the symptoms those evidence have described, I am of opinion that sir Theodosius Boughton died of poison.

Dr. Parsons sworn—Examined by Mr. Howorth.

Q. You are, I believe, professor of anatomy in the University of Oxford? A. I am.

Q. You have heard the symptoms attending the death of sir Theodosius Boughton described by the witnesses produced to-day? A. I have.

Q. What, in your judgment, occasioned the death of sir Theodosius Boughton? A. From the description of the state of the young baronet's health previous to his taking the second dose, which was supposed to be similar to that which he had taken two or three days before, and from the violent nervous symptoms that immediately followed the taking thereof, it is my opinion that he died in consequence of taking the second dose; which, instead of being a composition of jalap and rhubarb only, proved to contain a poison; and of what nature that poison was appears sufficiently from the description lady Boughton gives of its smell: when she poured it out in order to give it to her son, her ladyship said it smelt like the taste of bitter almonds, which particularly characterizes the smell of laurel water. Perhaps it may not be improper to produce some laurel water for the jury to smell at, that they may judge how well it agrees with the description that lady Boughton has given of the supposed physic. The violent nervous symptoms that came on subsequent to his taking the second dose, took place so soon, and were so different from what attended the taking of the first, that undoubtedly they were caused by something it had in it very different from the contents of the first, much more active, and, as it proved, more deleterious. Jalap sometimes disagrees with the stomach, and may produce sickness; but with respect to sir Theodosius Boughton, this medicine did not create any sickness when given the first time.

Court. Could all the ingredients in the medicine mentioned by Mr. Powell produce, in sir Theodosius Boughton, the effects described? A. No, I apprehend they could not; and as a proof of it, they did not produce any such effects in the first instance or dose.

Q. Are the symptoms which have been described by lady Boughton such as would attend an epilepsy, or is there any and what difference? A. The epilepsy is distinguished by a total abolition of sense, but an increase of motion in several of the muscles, so that the patient will appear much convulsed, and seems to hear and see every thing that is said and done, and to observe whatever is passing; yet when the fit goes off, he has no knowledge or recollection of what has happened. Apoplexy is a sudden privation of all

the powers of sense and voluntary motion, the person affected seeming to be in a profound sleep, accompanied with considerable noise in breathing. As so little, therefore, is said of convulsions, as a part of sir Theodosius' symptoms, the state in which he lay seems to have been more of the apoplectic kind than the epileptic.

Q. It has been described by lady Boughton, that soon after taking this draught the stomach heaved very much, and a noise could be perceived as issuing from it; now is that, in your judgment, to be attributed to either epilepsy or apoplexy, or the effect of the medicine? A. The effects of the medicine, I think, undoubtedly, not spontaneous epilepsy or apoplexy; it is very immaterial whether you call the symptoms epileptic or apoplectic, for whichever they resembled most, I consider them but as symptomatic.

Q. Was the heaving of the stomach the effect of apoplexy, or epilepsy, or of this draught? A. No doubt, I think, the draught was the cause, especially as laurel water, which the draught seems to have contained from its peculiar smell, will produce similar effects.

Q. Then your judgment is, that the fatal effects were produced by the medicine thus taken? A. I think there can be no doubt of that, as they commenced almost as soon as he swallowed the draught; and a mixture, such as he is supposed to have taken, is known to have the power of producing them.

Q. And from your knowledge of the effects produced by laurel water, your opinion is, that laurel water was the poison thus administered to sir Theodosius Boughton? A. It is. Dr. Rutty relates a case "of a girl of eighteen years of age, and in perfect health, who took a quantity less than two spoonfuls of the first runnings of simple water of laurel leaves, whereupon in half a minute she fell down, was convulsed, foamed at the mouth, and died in a short time."

Q. Could those effects be produced, speak from your own judgment, by laurel water? A. I have no doubt of it. Dogs, and other quadrupeds, as we are informed, that take it, fall immediately into totterings and convulsions of the limbs, which are presently followed by a total paralysis; these convulsions, with some additional circumstances, as foaming at the mouth, and loss of sense, constitute the epilepsy which is described among the effects of vegetable poisons.

Dr. Parsons, cross-examined by Mr. Newnham.

Q. From the appearances of health in sir Theodosius Boughton, and from the medicine not having occasioned any bad symptoms before, you conclude his death was occasioned by some other medicine substituted instead of that, or in addition to it? A. Most certainly, especially as the smell of it bespoke its having received the addition of a very poisonous ingredient.

Q. Have you ever known instances of persons being taken sudden when engaged in pleasure, or business, or at dinner, and dying convulsed, epileptic or apoplectic? A. I have; but those who die suddenly of apoplexy are generally persons of a full habit, and who are neither so thin or so young as sir Theodosius Boughton.

Q. Have you never known instances of persons of a thin habit being attacked by apoplexy or epilepsy? A. By epilepsy they may.

Q. Have you never heard of a person having the appearance of perfect health being seized with an epilepsy without any primary cause giving any warning; have you never heard of people in perfect health being seized with an epilepsy or apoplexy? A. Yes, apoplexy proceeding from repletion or the sudden bursting of a blood vessel; epilepsy may proceed from a variety of causes, partial or general, in the head or elsewhere; but very seldom, I believe, proves so suddenly fatal.

Q. Might not those have happened to sir Theodosius Boughton? A There can be no doubt of the possibility of their attacking him; but I think

there is no reason to go so far for a cause as to possibility, when this medicine, as all the world knows, will effect it.

Q. That is assuming, as a fact, that he took two ounces of laurel water? A. A much less quantity would be sufficient for the purpose, if we may credit Dr. Rutty's account.

Q. You collect that from the similarity of smell? A. We have nothing else to judge from but the similarity of smell.

Q. Is not that the case with a variety of things; will not black cherry water have that smell? A. Black cherry water is said to have the same smell; but it is now out of use. I don't suppose there is an apothecary in the island who has it; and, therefore, it could not be substituted by accident for the other vehicle.

Q. Will not bitter almonds have that smell? A. Yes, and spirits flavoured with them are said to be poisonous to the human species.

Q. You ground your opinion upon the description of its smell by lady Boughton? A. Yes; we can ground our opinion upon nothing else but that, and the subsequent effects.

Mr. Samuel Bucknill sworn—Examined by Mr. Balguy.

Q. I believe you are a surgeon? A. I profess surgery.

C. Where do you live? A. At Rugby.

Q. Do you remember going at any time to Lawford Hall, and seeing captain Donellan? A. Yes.

Q. When was it? A. On the Tuesday, the morning after Dr. Rattray and Mr. Wilmer had been there to look at the body.

Q. Was you sent for, or did you go of your own accord? A. I was not sent for; I went of my own accord.

Q. Did you see captain Donellan at that time? A. I did.

Q. What conversation passed between you and captain Donellan. A. I cannot recollect every word that passed; but I told Mr. Donellan, "I had heard that Dr. Rattray and Mr. Wilmer had been there; that I was informed he and the rest of the family wanted the body of sir Theodosius Boughton to be opened; that I heard they declined opening it on account of the putrid state it was in; but if it would be any satisfaction to the family, I would, at all events, take out the stomach."

Q. Was you permitted to take out the stomach, or to act at all in the affair? A. No, I was not.

Q. Why was you not permitted? A. Mr. Donellan's reason which he gave was, "that Dr. Rattray and Mr. Wilmer had been there, and had declined opening the body; and it would not be fair in him or us to do any thing, after men so eminent in their profession had declined it" (as he expressed himself); had said it was impossible.

Q. Did any thing else pass between captain Donellan and you? A. I went away in consequence of that answer.

Q. Did you go there a second time? A. I went there the second time on the next day (Wednesday).

Q. Was that the day on which sir Theodosius Boughton was buried? A. It was.

Q. Did you go at that time by any appointment, or to meet any person? A. I received a verbal message from sir William Wheeler to go to Lawford Hall, to meet Mr. Snow; and Mr. Snow and I together were to open the body.

Q. Did you, in consequence of that message, go to Lawford Hall that day? A. I did.

Q. At what time of day did you get there? A. I believe it was about two o'clock.

Q. Did you see captain Donellan at that time? A. I did.

Q. What passed then? A. I saw captain Donellan in the hall; I asked

him if Mr. Snow was come. He said *he was not come.* I said, "Pray, sir, have you received any message or letter from sir William Wheeler?" He said *he had.* I told him I had received a verbal message from sir William Wheeler, to meet Mr. Snow there; and we were to get sir Theodosius Boughton's body into the garden, or any convenient place we thought proper, and to open it. Captain Donellan said, that *he had* written to sir William Wheeler, and likewise to Coventry, to the gentlemen of the faculty there; and he then waited sir William Wheeler's further orders.

Q. Was you at that time permitted to open the body? A. I wanted to attend a patient who was very ill, about two miles from Lawford Hall; I took my horse, and within ten yards of the gates, I met a stranger riding a great pace, who desired I would come to see that patient I was then going to see, for he thought she was dying. I left word, before I went, that I should be back again; I believe I mentioned the time, that it might be an hour and an half, I imagined.

Q. Who did you leave word with? A. I spoke it openly in the hall; there were a great many people there; the bearers were ready.

Q. Do you know whether captain Donellan was there? A. He was; I don't know whether he heard me speak those words, but I rather believe he did.

Q. Did you return at the time you promised? A. I had not rode above a mile from Lawford Hall, when I heard a person calling after me, who was upon a full gallop; he told me Mr. Snow was come. I dare say I could not have been gone three minutes before Mr. Snow came. I told the person I would be back in an hour; but could not return back then, as I had received a message from a patient, who, in all probability, was dying.

Q. Did you come back in an hour? A. I came back, I believe, in the hour.

Q. What passed then; was Mr. Snow there? A. I asked captain Donellan if Mr. Snow was gone. He said "*he was, and he had given them orders what to do*, and they were proceeding according to those orders; but," says he, "I am sorry you should have given yourself all this unnecessary trouble." I took my horse, and rode away as fast as I could.

William Frost sworn—Examined by Mr. Digby.

Q. Did you live in the service of lady Boughton at the time of sir Theodosius Boughton's death? A. Yes, as coachman.

Q. On the day of sir Theodosius Boughton's death, did any thing pass between you and captain Donellan, and what? A. I will tell you as near as possibly I can. The morning that sir The died, the captain and my lady were to go to the Wells to drink the water; they ordered me to get the horses ready. I got them ready near about seven o'clock in the morning; I took them to the gate. Captain Donellan came out to the gate, and felt the horse girths; he said, "*Are they fast, William?*" I said, "they are." He said, "*I will go and see if my lady is ready.*" He came back and said, "*My lady is not ready yet*; I will take my mare and go to the Wells." I took the horses in. When I had been in the stable a considerable time, lady Boughton came, and called, "William." I said, "My lady." She said, "You must go for Mr. Powell, and fetch him as fast as possible; my son is dangerously ill." I said there was none but her horse in the stable. She said that would not go fast enough; I must get the mare. I told her that captain Donellan had the mare. She bid me go and meet him, and take the mare. I shut the door, and went towards the gate; the captain came inside the gate. I told him I was to go to Mr. Powell's. Captain Donellan made some answer, but what it was I did not take particular notice: I took the mare, and went.

Q. When you came back from Mr. Powell, was you called by captain Donellan into the parlour? A. I was called into the parlour by captain Donellan; but whether it was the same morning, or a morning or two after, I cannot recollect. I was called into the parlour: when I came to the parlour door, he said, "William, which gate did I come out at that morning?" I looked at him,

and said, "At the iron gates." He said, "Look, lady Boughton, what William says." Afterwards he said, I should be a clear evidence for him about his coming out that gate.

Samuel Frost sworn—Examined by Mr. Howorth.

Q. Were you the servant sent by sir Theodosius Boughton to Mr. Powell at Rugby, on the Tuesday, for a medicine? A. I was.

Q. From whom did you receive the medicine? A. From Mr. Powell's own hands.

Q. Into whose hands did you deliver the medicine? A. Into the hands of sir Theodosius Boughton.

Q. At what time of the day did you bring it? A. Between five and six o'clock in the afternoon.

Q. What did he do with the medicine when he received it? A. He went with it up-stairs.

Q. Were you with him that afternoon a-fishing? A. About seven o'clock I was.

Q. Did you stay with him till he returned? A. I did.

Q. Was captain Donellan along with sir Theodosius Boughton any part of the time? A. No, he was not.

Q. Was sir Theodosius Boughton on foot or on horseback? A. He kept on horseback all the time.

Q. Was it possible for him to wet his feet? A. No, he had his boots on, and continued on horseback all the time.

Q. Had you occasion to go into his room next morning before he took his physic? A. Yes.

Q. At what time did you go? A. About six o'clock.

Q. Did you awake him? A. I did, in order to get some straps to buckle on a net I was going to carry somewhere.

Q. Who gave you those straps? A. Sir Theodosius Boughton; he got out of his bed, and went into the next room to take them out.

Q. How did he appear at that time in his health? A. He appeared to be in a very good state of health.

Samuel Frost, cross-examined by Mr. Dayrell.

Q. It was between five and six o'clock when you brought the medicine from Mr. Powell's? A. About that time.

Q. Was it nearer six or five? A. I can't say.

Q. How long was it after that, that sir Theodosius Boughton went a-fishing? A. He was a-fishing when I went to him, about seven o'clock.

Q. But when did he go a-fishing? A. I did not see him when he went out, I was not in the way.

Q. Where was he when you delivered him the medicine? A. On the other side the brook, when I went to him.

Q. Was he a-fishing when you delivered him the medicine? A. No; I delivered the medicine to him upon the stairs; his sister stood by him when I delivered it to him.

Q. What did he do with it? A. I cannot tell what he did with it; he took it up-stairs in his hands, and showed it to his sister.

Q. How soon afterwards was it that you saw him at the brook? A. It might be a couple of hours after I gave him the medicine.

Q. Do you know what time he came home? A. Near nine o'clock, I believe; it was quite dark when he came home.

Q. Did your master complain that the physic Mr. Powell had sent him before made him sick. A. I never heard him make any complaint of it.

Q. Did not you tell Mr. Powell so? A. Not that physic; he never said any thing to me about it.

Q. Did he about any physic? A. Not to me.

Q. What did you mean by saying not that physic? A. He took one dose

of physic, which made him very ill, and he brought it up again; but he did not mention any thing to me about it.

Q. Was any other person present besides his sister when you delivered the medicine to him? A. There was not.

Q. What time of day did you generally dine at lady Boughton's? A. About two or three o'clock, or sometimes later.

Q. How soon after dinner had you seen Mr. Donellan? A. About seven o'clock, I believe, in the garden.

Q. You had not seen him from dinner time till then? A. No.

Q. Who was with him in the garden? A. My lady and madam Donellan.

Q. Did you see nothing of him from dinner time till seven o'clock? A. No.

Q. Do you know when Mr. Donellan came home that night? A. No.

Court. How long was it after you delivered the medicine to sir Theodosius Boughton, before he got on horseback, and went a-fishing? A. I cannot tell; I was not in the house when he went.

Mary Lynnes sworn—Examined by Mr. Wheeler.

Q. Did you live servant to Mr. Donellan, at Lawford Hall, a little before sir Theodosius Boughton's death? A. Yes.

Q. How long before sir Theodosius Boughton died? A. I was not there at his death; I had left the place then.

Q. When did you leave it? A. I cannot justly tell when I did leave it.

Q. Was it a month or six weeks before sir Theodosius Boughton's death? A. About a month, I believe.

Q. How long had you lived there, before you left that place? A. I cannot justly tell.

Q. Did you live there a twelvemonth, or half a year? A. No.

Q. Might you have been there three or four months? A. I might.

Q. During the time you was there, Mr. Donellan was at that house? A. All the time I was there, he was.

Q. Do you know any thing about a still? A. Yes.

Q. Mention what you know about it. A. I will tell the truth, and nothing else. Mr. Donellan distilled roses, I do not know that he distilled any thing else.

Q. Where was the still kept? A. In what he called his own room.

Q. Was that the room he slept in? A. No, he did not sleep there.

Q. Was the room of that door locked? A. He slept there when madam Donellan was brought to bed, but at no time else while I was there.

Q. Was that room locked in which the still was? A. It was kept locked before Mrs. Donellan was brought to bed, but when she was brought to bed, it was open.

Q. Do you know any thing of his using this still frequently? A. Yes, distilling roses; I do not know that he distilled any thing else.

Q. Was that done frequently? A. Yes; I cannot tell how long he distilled, but he distilled a good while.

Francis Amos sworn—Examined by Mr. Howorth.

Q. Did you live at Lawford Hall at the time of the death of sir Theodosius Boughton? A. Yes.

Q. In what capacity? A. Gardener.

Q. Do you remember being out a-fishing with sir Theodosius Boughton the night before he died? A. Yes.

Q. Was you with him the whole of the time he was fishing? A. I was.

Q. Was Mr. Donellan fishing with him? A. He was not.

Q. Do you remember seeing Mr. Donellan on the evening sir Theodosius Boughton died? A. Yes, I saw him in the garden.

Q. I am asking you if you saw Mr. Donellan on the evening after the

death of sir Theodosius Boughton, and whether you had any conversation with him? A. At night I had.

Q. What did he say to you? A. He came into the garden to me; he said, "*Now, gardener, you shall live at your ease, and work at your ease; it shall not be as it was in sir The's days. I wanted before to be master, but I have got master now, and shall be master.*"

Q. Do you know any thing of Mr. Donellan using a still for any purpose? A. He brought a still to me to clean, after sir The died; it was full of lime, and the lime was wet.

Q. Was any thing said by him about it? A. He said he used the lime to kill fleas.

Q. You as gardener, I suppose, know whether he used to gather things in the garden for the purpose of distilling? A. He might for what I know.

Q. Have you ever got any thing? A. I have got lavender for him to distil, and have taken it into the house.

Q. Have you in your garden any laurel trees? A. Yes, and bays too, and lawstinas.

Mr. Newnham. And cellery? A. Yes.

Q. On the morning on which sir Theodosius Boughton died, Mr. Donellan was with you, for the purpose of getting some pigeons? A. Yes.

Q. Did any conversation pass between him and you respecting sir Theodosius Boughton? A. Yes; he said, "Gardener, you must go and take a couple of pigeons directly." I said they were not fit to eat. He said, "It will make no odds if they are not, for they are for sir The; we must have them ready against the doctor comes. Poor fellow," says he, "he lies in a sad agony now with this damned nasty distemper, the pox; it will be the death of him."

Q. That was on the morning on which he died? A. Yes; as soon as I went into the house with the pigeons, I met my lady and madam Donellan at the door; they were wringing their hands. They said, "It is too late now, he is dead." They sent me for two women to lay him out.

Francis Amos, cross-examined by Mr. Newnham.

Q. He was laid out? A. Yes

Q. Mr. Fonnereau came there that day? A. No, he came there the day after.

Q. Did Mr. Fonnereau see him? A. Yes.

Q. About what hour was it when the prisoner spoke to you about the pigeons? A. It might be about eight o'clock.

Q. How soon was it afterwards that the ladies came out wringing their hands? A. In a very few minutes.

William Crofts sworn—Examined by Mr. Geast.

Q. Did you attend at the taking the coroner's inquisition at Newbold upon the body of sir Theodosius Boughton? A. I did.

Q. You was, I believe, one of the jury? A. I was.

Q. Lady Boughton was examined upon that occasion? A. Yes, she was.

Q. Did you, during lady Boughton's examination, observe any particular behaviour in captain Donellan?—if you did, give an account of it. A. When lady Boughton said, "Captain Donellan rinsed the bottles," I saw captain Donellan catch her by the gown, and give her a twitch.

John Darbyshire sworn—Examined by Mr. Digby.

Q. You was a prisoner in Warwick jail for debt? A. Yes.

Q. Have you had any conversation with Mr. Donellan? A. Yes, I have.

Q. How came you to enter into any particular conversation with him? A. We were both in one room together; he had a bed in the same room I had, for a month or five weeks, I believe. In our conversation in the prison, I used to tell captain Donellan what I had heard. I remember one time we had a conversation about sir Theodosius Boughton's being poisoned: I asked cap-

tain Donellan whether the body was poisoned or not. He said there was no doubt of it. I said, "For God's sake, captain, who could do it?" He said, "It was done amongst themselves; he had no hand in it; he had nothing to do with it." I asked who he meant by themselves. He said, himself, lady Boughton, the footman, and the apothecary.

Q. Who did he mean by himself? A. Sir Theodosius Boughton. I said, "Sure, he could not do it himself." He said, no, he did not think he did; he could not believe he would. I told him I thought the apothecary could hardly do it, for he had no interest—he would lose a good patient; that his footman could have no interest in it; and it was very unnatural to suppose that lady Boughton would do it. He then spoke of lady Boughton, how covetous she was; he said she had received an anonymous letter the day after sir Theodosius' death, charging her plump with poisoning sir Theodosius; that she called him and read it to him, and she trembled: he said she desired he would not let his wife know of that letter; and asked him if he would give up his right to the personal estate, and some estates of about two hundred pounds a year belonging to the family. I think that was the substance of that conversation.

John Darbyshire, cross-examined by Mr. Newnham.

Q. Had you ever any acquaintance with Mr. Donellan before he came to Warwick jail? A. No.

Q. You never had seen him before? A. Never.

Q. When had you this conversation? A. In less than a month after he came into the jail.

Q. Soon after his coming? A. It was not a month, I am sure.

Q. What way of life was you in before you came to this jail? A. A tradesman, and a very reputable one.

Q. Not a successful tradesman? A. I have failed.

Q. How often? A. Twice, the more is my misfortune.

Q. Do you mean twice a bankrupt? A. Yes, but I fell fairly.

Q. Where did you live? A. At Birmingham.

Q. You know Mr. Pope very well? A. Yes.

Q. And sir Alexander Leith, too? A. I did not know him.

Q. But you did know Mr. Pope? A. Yes, I did; but not sir Alexander Leith; I never spoke to sir Alexander in my life.

Q. What time of the day was it when this conversation happened which you represent to have been held between you? A. I fancy it was before dinner; we had had that conversation, at least parts of it, frequently; he talked of this affair, I suppose, hundreds of times.

Q. So that was his usual account? A. Not that very language, speaking about sir Theodosius Boughton's death being imputable to lady Boughton; but has said, that *he was innocent*. He said *it was impossible he could do a thing which was not in his power;* he said it was never in his power to do it.

Mr. Howorth. Did the prisoner in any of those conversations ever make a doubt that sir Theodosius Boughton was poisoned by somebody? A. Since Christmas, I think, he has said he was not poisoned.

Q. How lately has he altered in his conversation? A. I cannot justly say.

Q. Have you in conversation heard him say that he was poisoned. A Yes, I have.

Sir William Wheeler, Bart., sworn—Examined by Mr. Howorth.

Q. You, I believe, was the guardian of sir Theodosius Boughton? A. I was.

Q. Do you remember receiving that letter? A. Yes, I received that letter from captain Donellan; it is his handwriting. (The letter read.)

"*Dear Sir,*—I am very sorry to be the communicator of sir Theodosius' death to you, which happened this morning; he has been for some time past

under the care of Mr. Powell, of Rugby, for a similar complaint to that which he had at Eton. Lady Boughton and my wife are inconsolable. They join me in best respects to lady Wheeler, yourself, and Mr. and Mrs. Sitwell. We are much concerned to hear of their loss.

"I am, dear sir, with the greatest esteem, your most obedient servant,

"*Lawford Hall*, *August* 30, 1780. J. D."

Sir William Wheeler. This is my answer.

"*Lemington*, *September* 2, 1780.

"*Dear Sir*,—I received the favour of your letter the day after my return to Mr. Sitwell's. The sudden and very untimely death of my poor unfortunate ward gives me great concern; and we condole with lady Boughton, Mrs. Donellan, and yourself, for his loss. I send a servant with this, to know how lady Boughton and Mrs. Donellan do after so sudden and great a shock. Please to make our respects to them; at a proper time I shall make my respects to them and you in person.

"I am, dear sir, your obedient humble servant,

"WM. WHEELER.

"TO JOHN DONELLAN, ESQ. LAWFORD HALL."

Q. When was first intimated to you any suspicion of this young gentleman having been poisoned? A. On Friday, the 1st of September.

Q. Did you, in consequence of that information, write any letter to the prisoner respecting it. A. On the 3d of September, Mr. Newsam came to my house, and read a letter from lord Denbigh; in consequence of what I heard from him, I wrote a letter to the prisoner.

Q. Have you that letter, or a copy of it? A. There is a copy of it.

Q. Can you, from your recollection, undertake to say this is a copy of what you wrote? A. It is. (The copy of that letter read.)

"*Lemington*, *September* 4, 1780.

"*Dear Sir*,—Since I wrote to you last, I have been applied to, as the guardian of sir Theodosius Boughton, to inquire into the cause of his sudden death; and report says, that he was better the morning of his death, and before he took the physic, than he had been for many weeks, and that he was taken ill in less than half an hour, and died in two hours after he had swallowed the physic. Supposing this to be true, there is great reason to believe that the physic was improper, and that it might be the cause of his death: as it makes a great noise in the country, and as I find I am very much blamed for not making some inquiry into the affair, I thought it necessary to call upon Mr. Powell to give an account in what state of health he found sir Theodosius Boughton when he first attended him; what medicines he gave him, and particularly the dose of physic that he took the morning of his death; and what state he was in at the time of his death. I expect Mr. Powell here every moment; his character is at stake; and I dare say it will be a great satisfaction to him to have the body opened; and though it is very late to do it now, yet it will appear from the stomach whether there is any thing corrosive in it. As a friend to you, I must say, that it will be a great satisfaction to me, and I am sure it must be so to you, lady Boughton, and Mrs. Donellan, when I assure you that it is reported all over the country that he was killed either by medicine or by poison. The country will never be convinced to the contrary unless the body is opened, and we shall all be very much blamed; therefore, I must request it of you and the family, that the body may be immediately opened by Mr. Wilmer of Coventry, or Mr. Snow of Southam, in the presence of Dr. Rattray, or any other physician that you and the family think proper. Mr. Powell is now with me; and from his account, it does not appear that his medicines could be the cause of his death: he has not given him any mercury since June, and the physic that he took

the morning of his death was composed of rhubarb and of jalap, two very innocent drugs. Mr. Powell says it will be a great satisfaction to him to have the body opened; and for the above reasons, I sincerely wish it, as no reflection can be cast upon me, lady Boughton, or you, if it is done; and if it is not, she will be much blamed. I will only add that this affair makes me very unhappy, as it must do you, lady Boughton, and Mrs. Donellan. I beg of you to lay this affair before lady Boughton in as tender a manner as you can, and to point out to her the real necessity of complying with my request, and to say that it is expected by the country.

"I am, with respect to lady Boughton, yourself, and Mrs. Donellan, your sincere friend and obliged humble servant, "WM. WHEELER.

"To John Donellan, Esq., Lawford Hall."

I received this answer from Mr. Donellan.

"*Dear Sir*,—I this moment received a letter from you, by Mr. Powell, which I communicated to lady Boughton and my wife, and we most cheerfully wish to have the body of sir Theodosius opened, for the general satisfaction, and the sooner it is done the better; therefore, I wish you could be here at the time.

"I am, dear sir, with the greatest sincerity, your most obedient and humble servant,

"*Lawford Hall*, *Sept*. 4*th*, 1780. "JOHN DONELLAN.

"To Sir William Wheeler, Bart."

"*Dear Sir*,—I have this moment received the favour of your letter, and I am very happy to find that lady Boughton, Mrs. Donellan, and yourself approve of having the body opened. I should wish to show lady Boughton, and every part of her family, every respect that is in my power; but it would be very improper for me, or indeed any other person, except the faculty, to attend upon this occasion. One surgeon, a physician, and Mr. Powell should attend as soon as possible. I hope that you understand, that it is not to satisfy my curiosity, but the public, that I wish to have this done, and to prevent the world from blaming any of us that had any thing to do with poor sir Theodosius. I am, with great sincerity, your faithful humble servant,

"WILLIAM WHEELER.

"To John Donellan Esq., Lawford Hall."

I received this answer from captain Donellan.

"*Dear Sir*,—Give me leave to express the heartfelt satisfaction I enjoyed in the receipt of your letter, as it gave lady Boughton, my wife, and self an opportunity of instantly observing your advice in all respects. I sent for Dr. Rattray and Dr. Wilmer; they brought another gentleman with them; Mr. Powell gave them the meeting, and upon receipt of your last letter, I gave it to them to peruse and act as it directed. The four gentlemen proceeded accordingly, and I am happy to inform you that they fully satisfied us; and I wish you would hear from them the state they found the body in, as it will be an additional satisfaction to me that you should hear the account from themselves. Sir Theodosius made a very free use of ointment and other things, to repel a large b—— which he had in his groin. So he used to do at Eaton, and Mr. Jones told me often. I repeatedly advised him to consult Dr. Rattray, or Mr. Carr; but as you know sir Theodosius, you will not wonder at his going his own way, which he would not be put out of. I cannot help thinking but that Mr. Powell acted to the best of his judgment for sir Theodosius in this and the last case, which was but a short time finished before the latter appeared. Lady Boughton expressed her wishes to sir Theodosius that he would take proper advice for his complaint; but he treated hers as he did mine. She and my wife join in best respects.

"5*th September*, 1780. "JOHN DONELLAN

"To Sir William Wheeler, Bart."

Q. Upon the receipt of this letter did you entertain any idea but that the body had been opened? No.

Q. When were you first undeceived in that particular? A. On Wednesday morning.

Q. Did you, in consequence of being undeceived, write any letter to Mr. Donellan? A. I wrote this letter.

"*Dear Sir*,—From the letter that I received from you yesterday morning, I concluded that the body of the late sir Theodosius Boughton had been opened, and that I should receive an account from the faculty of the state that they found it in. I have not yet heard from them, but find that they found the body in so putrid a state that they thought it not safe to open it: I likewise find, that a young man of Rugby, Mr. Bucknill, did attend and offer to open the body, but it was not done. If Bucknill and Snow will do it, I, by all means, recommend it to you to let it be done, as it must be satisfaction to you as well as myself to have the cause of his sudden death cleared up to the world. If there is any danger in opening the body, it is to themselves, and not to the family, as the body may be taken into the open air. If I am not misinformed, Mr. Bucknill is or was very desirous of opening the body

"I am, with respects to lady Boughton, Mrs. Donellan, and yourself, your sincere and obliged humble servant,

"WILLIAM WHEELER.

"*Lemington*, *Sept*. 6*th*, 1780.

"If Snow is from home, I do not see any impropriety in Bucknill's doing it, if he is willing. I will send Snow to Bucknill, that if Bucknill should be gone to Lawford Hall, he may follow him.

"To John Donellan, Esq., Lawford Hall."

Sir William Wheeler. This is the answer I received to that letter on the evening sir Theodosius was buried.

"*Dear Sir*,—In answer to yours, which I this moment received, I now, as I did yesterday in my letter, refer you and any one that pleases, for the particulars respecting the state Messrs. Rattray, Wilmer, Powell, and another gentleman, found sir Theodosius' body in. They, agreeably to your directions, were by themselves upon that business, and I was in hopes you had seen them since I wrote to you yesterday morning. Mr. Bucknill, of Rugby, called here afterwards, and said he heard that we wanted to have the body opened. I told him we did, and that I wrote to the above gentleman for that purpose, and that you had named them to us; and if you had named him (Bucknill), we would have sent to him as we did to these gentlemen. We fixed this day for the corpse to be buried, as being the eighth day since sir Theodosius died; and if the coffin had not been soldered by the plumber (Crooke) from Rugby, Mr. Bucknill should be welcome to inspect the body. The time fixed for the burial is three o'clock to-day; and if you please to order it to be postponed until the state of the body is made known to you by the people you ordered to come here, please to let me know it before. If we do not hear from you, we conclude you have seen some of them; and lest you should not, I will send to Dr. Rattray to call upon you directly, and bring with him my note to him to come here with Mr. Wilmer to open sir Theodosius.

"We are, dear sir, your most humble servants, and in particular,

"JOHN DONELLAN.

"*A quarter before one o'clock*, *Wednesday*.

"To Sir William Wheeler, Bart."

Sir William Wheeler sworn—Cross-examined by Mr. Newnham.

Q. Did you know the late sir Edward Boughton? A. I did very well

Q. Do you recollect what he died of? A. He died suddenly, but I don't know what it was of.

Q. I believe he died as he was walking home? A. I understood so.

Mr. Howorth. What sort of person was sir Edward Boughton? A. A short thick-set fat man.

Q. What sort of a person was the late sir Theodosius? A. He was very thin, and was taller than his father.

Court. How far do you live from Lawford Hall? A. Eight miles the nearest way; the coach-road is ten miles at least. The servants always go the coach-way, because the other is a trespass.

"*To the Coroner and Gentlemen of the Jury, at Newbold.*

"*Gentlemen,*—My understanding from report that you are to meet again to-day, I hold it my duty to give you every information I can collect respecting the business which you are upon, exclusive of what happened before you last Saturday, when lady Boughton and myself was with you. During the time sir Theodosius was here, great part of it was spent in procuring things to kill rats, with which this house swarms remarkably. He used to have arsenic by the pound weight at a time, and laid the same in and about the house, in various places and in as many forms. We often expostulated with him about the extreme careless manner in which he acted, respecting himself and the family in general; his answer to us was, that the men servants knew where he had laid the arsenic, and for us we had no business with it. At table, we have not knowingly eaten any thing for many months past which we perceived him to touch, as we well knew his extreme inattention to the bad effects of the various things he frequently used to send for, for the above purposes, as well as for making up horse medicines; he used to make up vast quantities of Gulard, from a receipt which he had from Mrs. Newsam; she will give you a copy of it, if you please, and it will speak for itself. Since sir Theodosius' death, the gardener collected several fish which sir Theodosius laid: he used to split them and rub the stuff upon them; the gardener was ordered to bury the fish. The present men servants, and the former ones, for about two years back, with William Mathews, the house carpenter, can relate the particulars respecting the above having been sir Theodosius' common practice when he was able, or that he was not a-fishing, or attending his rabbits, or at carpenter's work. Lady Boughton, my wife, and self have showed the utmost willingness to satisfy the public respecting sir Theodosius' death, by every act within the limits of our power. The accompanying letter from sir William Wheeler will testify the same, as well as our orders that every one that came to the house should see the corpse before it was put into the coffin the fourth day; and the eighth day the corpse was sent to the vault at Newbold.

"I am, gentlemen, your most obedient servant,

"JOHN DONELLAN.

"14*th Sept.* 1780, *Thursday, Lawford Hall.*"

The counsel for the crown called a witness to prove the copy of the letter which Mr. Howorth in his opening stated to have been sent from the prisoner to Mrs. Donellan; but owing to a defect in the evidence, the copy could not be received.

PRISONER'S DEFENCE, AS READ BY THE CLERK OF THE ARRAIGNS.

"*My Lord and Gentlemen of the Jury,*—Permit me, in this unfortunate situation, to submit to your consideration a few particulars and observations relating to this horrid charge which has been brought against me.

"Although many false, malevolent, and cruel reports have been circulated in the *public prints* and throughout the country, ever since my confinement, tending to prejudice the minds of the people in an opinion injurious to my

honour and dangerous to my life, I still have confidence that your justice and humanity cannot be misled by them. My marriage with Mrs. Donellan, in the year 1777, was with the entire approbation of her friends and guardians; and to convince both her and them of my honourable intentions, I entered into articles for the immediate settling of her whole fortune on herself and children, and deprived myself of the possibility of even enjoying a life-estate in case of her death; and this settlement did not extend only to her then fortune, but to all future expectancies. Ever since my marriage the deceased and myself lived in perfect friendship and cordiality; and it is well known to the family, and to many respectable persons, that upon several occasions of danger to his life, which the deceased had unguardedly fallen into, I have stepped in and prevented it. Such instances of friendship on my part are, I trust, sufficient to convince you that I could never entertain any design against his life. Immediately after the death of sir Theodosius, I wrote a letter to sir William Wheeler, one of his guardians, to acquaint him of the melancholy event; and to my letter sir William Wheeler sent an answer, condoling with the family for the loss. A few days after, I think on the 4th of September, I received a second letter from sir William, respecting the surprise which had arisen in the country respecting sir Theodosius' death, and his wish to have the body opened for general satisfaction. This letter was brought me by Mr. Powell, and so anxious was I to give that satisfaction, that by him I returned an answer, expressing the cheerful acquiescence of myself and the family to his propositions, and immediately after sent a servant to Coventry to Mr. Wilmer and Dr. Rattray (gentlemen alluded to in sir William's letter), requesting them to be at Lawford directly to perform the operation. These gentlemen arrived there about nine o'clock at night, 'when I produced to them sir William's letter, and desired they would pursue his instructions.' They accordingly, with Mr. Powell, went up-stairs and examined the body; and after continuing there some time, returned and informed the family, that the same was so putrid, it was not only dangerous to approach it, but impossible at that time to discover the cause of sir Theodosius' death. I then expressed my wish that sir William might be acquainted with the result of their attendance; and I think Dr. Rattray promised to wait upon him the next morning for that purpose. But by a letter I received from sir William, soon afterwards, I found Dr. Rattray had not been with him, and therefore immediately sent a letter to Mr. Wilmer, particularly requesting that he and Dr. Rattray would, on receipt thereof, wait on sir William Wheeler; to which he wrote me an answer, informing me that he was then engaged in a case of midwifery; but, that as soon as he should be disengaged, he would comply with my request; and further informed me, that Dr. Rattray was then from home; that if he should return before he (Mr. Wilmer) left Coventry, he would communicate my wishes to him.

"Soon after this, a Mr. Bucknill called at Lawford, and said that he had understood that I wished to have the body of sir Theodosius opened. I informed him that it was my wish; but that Mr. Wilmer, Dr. Rattray, and Mr. Powell had attended the preceding evening, and declared that from the high state of putrefaction the body was in, it was not only unsafe to open it, but at that time impossible to form any opinion with respect to the same. However, I told him that I should nevertheless think myself obliged to him to undertake the matter, if he would wait upon sir William Wheeler, and obtain his consent to do it. Mr. Bucknill then left me, and the next morning, being the 6th of September, I received another letter from sir William Wheeler, wherein he mentioned that he had been informed of Mr. Bucknill's having expressed a wish to open the body, and that therefore he had requested Mr. Snow (the apothecary of his family) to call upon him, and take him to Lawford for that purpose; in which letter Sir William also recommended to me to let them open the body, if they should attend.

"This day had been fixed upon, several days prior to the same, for sir Theodosius' funeral, and the tenants and others invited were then there ready to attend the same. About three o'clock that afternoon, Mr. Bucknill arrived alone; and immediately on his arrival, I asked him if the plumber and carpenter (who were then there) should open the coffin, who desired they might wait till Mr. Snow should attend. Mr. Bucknill waited some time, and then informed me that he must go, but said he would return again; and desired that, if Mr. Snow should arrive in the mean time, he might wait. I pressed him to stay, but he said he could not do it.

"Soon after Mr. Bucknill was gone, Mr. Snow arrived, and waited a considerable time for Mr. Bucknill's return; but on his not arriving, he at length sent for the plumber and others into the parlour, and after examining them as to the putridity of the body, declared he would not be concerned in opening it for sir Theodosius' estate; and, recommending it to the family to have the same buried that afternoon, immediately left Lawford before Mr. Bucknill's return.

"The body was therefore buried that evening, but not by my directions or desire.

"This, my lord and gentlemen of the jury, was the undisguised part I took; but such is my misfortune, that not only a gentleman, unused to attend this bar, whose persuasive abilities the most conscious innocence must tremble at, has been called in against me, but the most trifling actions and expressions have been handled to my prejudice; my private letters have been broken open, and many other unjustifiable steps have been taken to prejudice the world and imbitter my defence. However, depending upon the conscience of my judge, and the unprejudiced impartiality of my jury, I trust my honour will be protected by their verdict."

For the prisoner, Andrew Miller sworn—Examined by Mr. Dayrell.

Q. You are, I understand, postmaster at Rugby? A. Yes, I am.

Q. Did you keep the Bear inn, at Rugby, at the time the assembly was held at that house? A. Yes.

Q. Do you remember any quarrel happening at your house between sir Theodosius Boughton and Mr. Wildgoose? A. Yes.

Q. How long was it ago? A. It was on Tuesday, the 1st of June, 1778.

Q. Do you remember whether Mr. Donellan was sent for or not on the occasion? A. I remember something of it.

Q. Do you remember Mr. Donellan's coming? A. Yes, I do.

Q. Do you remember what part Mr. Donellan acted upon that occasion? A. I thought at that time that he acted in such a manner as to prevent their fighting.

Q. Were any applications made to you to deliver up to the prosecutor's attorney any letters that might come from Captain Donellan? A. I don't recollect; I don't understand what you said about the letters; I remember something of some letters.

Mr. George Loggie sworn—Examined by Mr. Green.

Q. Do you know Mr. Chartres, a clergyman? A. Yes.

Q. Do you know of any misunderstanding, or a quarrel between him and sir Theodosius Boughton? A. Yes I was present at the time; I don't recollect the exact time, but it was about a year and a half ago. Part of the quarrel was between sir Theodosius Boughton and a Mr. Miller; Mr. Chartres interfered to accommodate the matter; Mr. Miller asked pardon, and sir Theodosius forgave Mr. Miller. Then sir Theodosius insisted upon fighting Mr. Chartres in consequence of that; sir Theodosius sent for captain Donellan; the captain came over the next morning in consequence of the letter, and interfered as a mediator; but I considered the matter as settled before the captain came.

Mr. John Hunter sworn—Examined by Mr. Newnham.

Q. Have you heard the evidence that has been given by these gentlemen? A. I have been present the whole time.

Q. Did you hear lady Boughton's evidence? A. I heard the whole.

Q. Did you attend to the symptoms her ladyship described as appearing upon sir Theodosius Boughton after the medicine was given him? A. I did.

Q. Can any certain inference, upon physical or chirurgical principles, be drawn from those symptoms, or from the appearances, externally or internally, of the body, to enable you, in your judgment, to decide that the death was occasioned by poison? A. I was in London then; a gentleman who is in court waited upon me with a copy of the examination of Mr. Powell and lady Boughton, and an account of the dissection, and the physical gentleman's opinion upon that dissection.

Q. I don't wish to go into that—I put my question in a general way. A. The whole appearances upon the dissection explain nothing but putrefaction.

Q. You have been long in the habit of dissecting human subjects? I presume you have dissected more than any man in Europe? A. I have dissected some thousands during these thirty-three years.

Q. Are those appearances you have heard described such, in your judgment, as are the result of putrefaction in dead subjects? A. Entirely.

Q. Are the symptoms that appeared after the medicine was given such as necessarily conclude that the person had taken poison? A. Certainly not.

Q. If an apoplexy had come on, would not the symptoms have been nearly or somewhat similar? A. Very much the same.

Q. Have you ever known or heard of a young subject dying of an apoplectic or epileptic fit? A. Certainly; but with regard to the apoplexy, not so frequent: young subjects will perhaps die more frequently of epilepsies than old ones; children are dying every day from teething, which is a species of epilepsy arising from an irritation.

Q. Did you ever in your practice know an instance of laurel water being given to a human subject? A. No, never.

Q. Is any certain analogy to be drawn from the effects of any given species of poison upon an animal of the brute creation, to that it may have upon a human subject? A. As far as my experience goes, which is not a very confined one, because I have poisoned some thousands of animals, they are very near the same: opium, for instance, will poison a dog similar to a man; arsenic will have very near the same effect upon a dog as it would have, I take it for granted, upon a man: I know something of the effects of them, and I believe their operations will be nearly similar.

Q. Are there not many things which will kill animals almost instantaneously, that will have no detrimental or noxious effect upon a human subject; spirits, for instance, occur to me? A. I apprehend a great deal depends upon the mode of experiment; no man is fit to make one but those who have made many, and paid considerable attention to all the circumstances that relate to experiments: it is a common experiment, which, I believe, seldom fails, and it is in the mouth of everybody, that a little brandy will kill a cat. I have made the experiment, and have killed several cats, but it is a false experiment; in all those cases where it kills the cat, it kills the cat by getting into her lungs, not into her stomach; because, if you convey the same quantity of brandy, or three times as much, into the stomach, in such a way as the lungs shall not be affected, the cat will not die. Now, in those experiments that are made by forcing an animal to drink, there are two operations going on; one is a refusing the liquor by the animal—its kicking and working with its throat to refuse it; the other is, a forcing the liquor upon the animal; and there are very few operations of that kind, but some of the liquor gets into the lungs; I have known it from experience.

Q. If you had been called upon to dissect a body supposed to have died of

poison, should you, or not, have thought it necessary to have pursued your search through the guts? A. Certainly.

Q. Do you not apprehend that you would have been more likely to receive information from thence than any other part of the frame? A. That is the tract of the poison, and I certainly should have followed that tract through.

Q. You have heard of the froth issuing from sir Theodosius' mouth, a minute or two before he died; is that peculiar to a man dying of poison, or is it not very common in many other complaints? A. I fancy it is a general effect, of people dying in what you may call health, in an apoplexy or epilepsy, in all sudden deaths where the person was a moment before that in perfect health.

Q. Have you ever had an opportunity of seeing such appearances upon such subjects? A. Hundreds of times.

Q. Should you consider yourself bound, by such an appearance, to impute the death of the subject to poison? A. No, certainly not; I should rather suspect an apoplexy, and I wish, in this case, the head had been opened to remove all doubts.

Q. If the head had been opened, do you apprehend all doubts would have been removed? A. It would have been still farther removed; because, although the body was putrid, so that no one could tell whether it was a recent inflammation, yet an apoplexy arises from an extravasation of blood in the brain, which would have laid in a coagulum. I apprehend, although the body was putrid, that would have been much more visible than the effect any poison could have had upon the stomach or intestines.

Q. Then, in your judgment upon the appearances the gentlemen have described, no inference can be drawn from thence that sir Theodosius Boughton died of poison? A. Certainly not; it does not give the least suspicion.

Mr. John Hunter, cross-examined by Mr. Howorth.

Q. Having heard the account to-day, that sir Theodosius Boughton, apparently in perfect health, had swallowed a draught which had produced the symptoms described, I ask you whether any reasonable man can entertain a doubt but that draught, whatever it was, produced those appearances? A. I don't know well what answer to make to that question.

Q. Having heard the account given of the health of this young gentleman, on that morning, previous to taking the draught, and the symptoms that were produced immediately upon taking the draught, I ask your opinion, as a man of judgment, whether you don't think that draught was the occasion of his death? A. With regard to his being in health, that explains nothing; we frequently, and indeed generally, see the healthiest people dying suddenly; therefore, I shall lay little stress upon that: as to the circumstances of the draught, I own they are suspicious; every man is just as good a judge as I am.

Court. You are to give your opinion upon the symptoms only, not upon any other evidence given.

Q. Upon the symptoms immediately produced, after the swallowing of that draught, I ask whether, in your judgment and opinion, that draught did not occasion his death? A. I can only say that it is a circumstance in favour of such an opinion.

Court. That the draught was the occasion of his death? A. Not because the symptoms afterwards are those of a man dying who was before in perfect health; a man dying of an epilepsy or apoplexy, the symptoms would give one those general ideas.

Court. It is the general idea you are asked about now; from the symptoms which appeared upon sir Theodosius immediately after he took the draught, followed by his death so very soon after, whether, upon that part of the case, you are of opinion that the draught was the occasion of his death? A. If I knew the draught was poison, I should say, most probably, the symp-

toms arose from that; but when I don't know that that draught was poison, when I consider that a number of other things might occasion his death, I cannot answer positively to it.

Court. You recollect the circumstance that was mentioned of a violent heaving in the stomach? A. All that is the effect of the voluntary action being lost, and nothing going on but the involuntary.

Mr. Howorth. Then you decline giving any opinion upon the subject? A. I don't form any opinion to myself; I cannot form an opinion, because I can conceive, if he had taken a draught of poison, it arose from that; I can conceive it might arise from other causes.

Q. If you are at all acquainted with the effects and operations of distilled laurel water, whether the having swallowed a draught of that would not have produced the symptoms described? A. I should suppose it would; I can only say this of the experiments I have made with laurel water upon animals, it has not been near so quick. I have injected laurel water directly into the blood of dogs, and they have not died; I have thrown laurel water with a precaution into the stomach, and it never produced so quick an effect with me as described by those gentlemen.

Q. But you admit that laurel water would have produced symptoms such as have been described? A. I can conceive it might.

Mr. Newnham. Would not an apoplexy or an epilepsy, if it had seized sir Theodosius Boughton at this time, though he had taken no physic at all, have produced similar symptoms too? A. Certainly.

Q. Where a father has died of an apoplexy, is not that understood, in some measure, to be constitutional? A. There is no disease whatever that becomes constitutional but what can be given to a child. There is no disease which is acquired that can be given to a child; but whatever is constitutional in the father, the father has a power of giving that to the children, by which it becomes what is called hereditary; there is no such thing as hereditary disease, but there is an hereditary disposition for a disease.

Mr. Howorth. Do you call apoplexy constitutional? A. We see most diseases are constitutional; the small-pox is constitutional, though it requires an immediate cause to produce the effects; the venereal disease is hereditary; I conceive apoplexy as much constitutional as any disease whatever.

Q. Is apoplexy likely to attack a thin young man, who had been in a course of taking cooling medicines before? A. Not so likely, surely, as another man; but I have in my account of dissections two young women dying of apoplexies.

Q. But in such a habit of body particularly, attended with the circumstance of having taken cooling medicines, it was very unlikely to happen? A. I do not know the nature of medicines so well as to know that it would hinder an apoplexy from taking effect.

Court. Give me in your opinion in the best manner you can, one way or the other, whether, upon the whole of the symptoms described, the death proceeded from that medicine, or any other cause? A. I do not mean to equivocate; but when I tell the sentiments of my own mind, what I feel at the time, I can give nothing decisive.

Mr. Justice Buller:—"*Gentlemen of the jury*,—The prisoner at the bar John Donellan, stands indicted for the wilful murder of sir Theodosius Boughton, which is charged to have been effected by poison.

"Before I state the evidence, I will take notice of a circumstance mentioned by the prisoner in his defence, which is, that a great many false and cruel reports have been circulated in the public prints through the country, ever since his confinement, tending to prejudice the minds of the people against him. If such have been printed, it has been extremely improper and highly criminal, for there is nothing which tends more to corrupt the course of justice than attempting to prejudice men's minds before the cause comes to be tried

Whether the fact be true or false is what I cannot say, for I really do not know of my own knowledge; but if it be true, I am confident you will take care to strip your minds of every thing you may have heard of this cause before you got into that box; and you will consider it coolly and deliberately upon the evidence given before you, and pronounce one way or the other, agreeably to what appears to you to be the truth of the case; and that in the verdict which may be finally given, whatever that may be, you will take nothing into your consideration that has not been proved in the course of the trial. On the part of the prosecution a great deal of evidence has been laid before you. It is all circumstantial evidence, and in its nature it must be so, for in cases of this sort, no man is weak enough to commit the act in the presence of other persons, or to suffer them to see what he does at the time; and, therefore, it can only be made out by circumstances either before the committing of the act—at the time when it was committed—or subsequent to it.

And a presumption, which necessarily arises from circumstances, is often more convincing, and more satisfactory, than any other kind of evidence; because it is not within the reach and compass of human abilities to invent a train of circumstances which shall be so connected together as to amount to a proof of guilt, without affording opportunities of contradicting a great part, if not all of those circumstances. But if the circumstances are such as, when laid together, bring conviction to your minds, it is then fully equal, if not, as I told you before, more convincing than positive evidence. Whether the circumstances in this case do or do not amount to that conviction, is a matter for your discussion. I will state the evidence as I have penned it down; and I trust I have not omitted any thing that is material, though I am conscious I have taken down a great deal that may not be material; and if I am thought by the counsel on either side to omit any thing material, I beg they will correct me, and I shall be glad to receive correction at their hands."

His lordship now summed up the evidence on both sides, and then proceeded thus:—

"*Gentlemen*,—This is the whole of the evidence on the part of the prosecution, and on the part of the prisoner; but in so long a trial as this has been, I don't think I should discharge my duty if I rested contented with doing nothing more than merely stating the evidence which has been given in a cause of so great length, consisting of such a variety of circumstances. I hold it to be a duty which I owe to the public, and which I owe to you, to state to you what are the impressions that the evidence makes upon my mind, and to give you my observations upon it; but at the same time previously to inform you, that you are not to adopt any opinion because it is mine: you are to consider the evidence yourselves; you are to form your own opinions; and if you differ from me in one, in any, or in all of the reasons I give, it is your judgment, and not mine, that must decide this cause. Now, there are two questions for you to consider; the first is, did the deceased die of poison? With respect to that, you have had the evidence, on the part of the prosecution, of a great number of very able men in the physical line, who have given you their opinions that they have no doubt but that the death was occasioned by poison. The first of the physicians called is Dr. Rattray; he says, he has no doubt at all but the medicine was the cause of the death, and, in his opinion, the appearances which he saw upon the body could not arise from putrefaction. He has taken great pains to inform himself of the effects of laurel water; he has tried various experiments, and has told you the effect each experiment produced. He mentioned the circumstance of a biting upon his tongue on opening the body of sir Theodosius Boughton, which likewise affected him in all the experiments he made afterwards; and from thence, he says, he is satisfied that the biting which he felt upon his tongue, at the time he opened this body, did proceed in some measure from laurel water. He says he never saw any heaving of the stomach attend either an epilepsy or an apoplexy. Mr. Wilmer says, that though from the appear-

ances of the body he is not able to form any opinion of the cause of the death, yet he is now clearly of opinion that sir Theodosius Boughton's death was occasioned by the draught administered by lady Boughton. He is asked about the epilepsy, and he says the heaving of the stomach is not a circumstance attending epilepsies. Another circumstance to be attended to upon the evidence is, that when they came to Lawford Hall, neither of them were told that there was the smallest suspicion that poison had been administered to sir Theodosius. If they had been, they both swear, in the strongest terms, that they would have opened the body at all events. Doctor Ash argues in opinion with them that sir Theodosius died in consequence of the draught; and he says that he can attribute the effects and symptoms which have been spoken of to nothing but poison; that the appearances, as mentioned upon the bodies of animals upon which this poison was used, were similar to those symptoms which appear when an animal is killed by vegetable poison.

"Doctor Parsons agrees in the same opinion that sir Theodosius Boughton did die of the poison; and he says that the smell is a great characteristic of laurel water. He agrees that the heavings are to be attributed to the effect of the medicine; his words were, 'they must be attributed to the effects of the medicine undoubtedly,' and that the laurel water will produce all the effects that have been mentioned.

"Gentlemen, these are the gentlemen of the faculty who have given their opinion on the part of the prosecution.

"For the prisoner, you have had one gentleman called, who is likewise of the faculty, and a very able man. I can hardly say what his opinion is, for he does not seem to have formed any opinion at all of the matter. He at first said, he could not form an opinion whether the death was or was not occasioned by the poison, because he could conceive that it might be ascribed to other causes. I wished very much to have got a direct answer from Mr. Hunter, if I could, what upon the whole, was now the result of his attention and application to the subject, and what was his present opinion; but he says he can say nothing decisive. So that upon this point, if you are to determine upon the evidence of the gentlemen who are skilled in the faculty only, you have the *very positive* opinion of four or five gentlemen of the faculty that the deceased did die of poison. On the other side, you have what I really cannot myself call more than the *doubt* of another; for it is agreed by Mr. Hunter that the laurel water would produce the symptoms which are described. He says an epilepsy or an apoplexy would produce the same symptoms; but as to an apoplexy, it is not likely to attack so thin and so young a man as sir Theodosius was; and as to an epilepsy, the other witnesses tell you they don't think the symptoms which have been spoken of do show that sir Theodosius had any epilepsy at the time.

"Gentlemen, this is the case as it stands upon the evidence of the physical gentleman only; but if there be a doubt upon that evidence, we must take into consideration all the other circumstances, either to show that there was poison administered, or that there was not; and every part of the prisoner's conduct is material to be considered. The first evidence that has been spoken of is, that for three weeks or more before the death, the prisoner had entertained doubts that something or other might happen to sir Theodosius before he came of age. This is sworn to by lady Boughton. On the evening before sir Theodosius died, the prisoner came out of the house into the garden about seven o'clock; and what is then his address to lady Boughton and his wife? He says, 'he has been to see sir The fishing, and that he had been persuading sir The to come in, lest he should take cold, but could not.' Is that true? You have it sworn by a servant who was with sir Theodosius Boughton all the time, that the prisoner was not with him at all. What was there, then, that called upon the prisoner unnecessarily to tell such a story? If you can find an answer to it that does not impute guilt to the prisoner, and if it be such an answer as you think is a fair and reasonable one, you will adopt it;

but upon this fact, and upon many others that I must point out to your attention, I can only say, that it frequently happens, that unnecessary, strange, and contradictory declarations cannot be accounted for, otherwise, than by a fatality which attends guilt. Then, you have it sworn by lady Boughton, that the prisoner, when he came up into the bed-chamber, accosted her in a manner as if he knew nothing of what had been doing; he asked, what do you want? Why, had hè heard nothing about it? The servant had told him what lady Boughton had said, and that he was going in a great hurry for the apothecary, Powell. Lady Boughton then told him, she thought, if such physic had been given to a dog, it would have killed him. What is the next step taken by the prisoner? He asks for the bottle. Is he not apprized at that time by lady Boughton that she suspected what it was that killed sir Theodosius, for though she does not use the term poison, she says she thought, if such physic had been given to a dog, it would have killed him. Then what is the next thing done by the prisoner? He asks her which is the bottle? She shows it to him; when he had got it in his hand, he asks again, is this it? She says, yes. He immediately pours in water, and washes it out. Now, gentlemen, can you find a reason for that? Was there any thing so likely to lead to a discovery as the small remains, however small they might have been, of medicine in the bottle; but that is destroyed by the prisoner. In the moment he is doing it, he is found fault with. What does he do next? He takes the second bottle, pours water into that, and washes it also. He is checked by lady Boughton, and asked what he meant by it, why he meddles with the bottle? His answer is, he did it to taste it; but did he taste the first bottle? Lady Boughton swears he did not. The next thing he does, is to get all the things sent out of the room; for when Sarah Blundell comes up, he orders her to take away the bottles, the basin, and the dirty things. He puts the bottles into her hands, and she was going to carry them away, but lady Boughton stopped her. Why were all these things to be removed? Why was it necessary for the prisoner, who then was fully advertised of the consequence by lady Boughton, to insist upon having every thing removed? Why should he be so solicitous to remove every thing that might lead to a discovery? When they came down stairs, which was some time afterwards, lady Boughton tells you of another conversation on the part of the prisoner; and if you believe that, it shows that what he had said about tasting the medicine was not from an intention, at the time, to taste it, but was an after-thought; for he says to his wife, 'Your mother has been pleased to take notice of my washing the bottles out;' and he adds, 'I don't know what I should have done, if I had not thought of saying I put the water in, and I put my finger upon it to taste it.' This he states afterwards, as a sudden thought which occurred to him at the instant, as an excuse. She swears that he did not taste the first bottle at all.

"Then the servant is called; for the prisoner is anxious to know what he remembers of the time of his going out. He fixes the time of the prisoner's going out to be seven in the morning, and then the prisoner answers, 'Will, you are my evidence.' Now something had passed between the time of the prisoner's leaving the bed-room and the time of the servants being called into the parlour, and also between the time of lady Boughton's coming into the parlour and the time of the servant being called in; all of which she does not remember; and though this expression is extraordinary, yet unless we knew the whole of what had passed, that expression does not strike me as a matter which is much to be relied on; for if lady Boughton had entertained suspicion of the prisoner's having been in sir Theodosius' room that morning, and had communicated that suspicion to the prisoner, it is natural enough for him to call a person to speak to a fact which might relate to that or something else, which he had said to lady Boughton, or which she had said to him, and then he might make this answer without adverting to any thing but what had immediately passed between them. The next thing is his conduct

with respect to the gentlemen of the faculty. He told lady Boughton he had received a letter from sir William Wheeler, desiring that the body might be opened; he read the answer to her, which he wrote after Dr. Rattray had been there; she objected to that answer, but the particular reason for objecting to it she did not give. In that letter he tells sir William Wheeler that he has great satisfaction in the receipt of his letter, as it gives him an opportunity of instantly observing his advice in all respects. He then says he sent for Dr. Rattray and Mr. Wilmer, who brought with them another person, who made three, and that Mr. Powell gave them the meeting; so that, according to this letter, four persons were present, and which meeting the prisoner, by his answer, leaves sir William Wheeler to understand had been a meeting procured in consequence of the letter sir William had himself sent. The prisoner in that letter says, 'after the receipt of your last letter, I gave it them to peruse and act as it directed; the four gentlemen proceeded accordingly, and I am happy to inform you, fully satisfied us.' Now what were the facts, upon the evidence, which warranted this general expression. Dr. Rattray and Mr. Wilmer had been in the room; they had seen nothing but the face of the deceased; they had heard of no suspicion of poison; they had never seen the first letter which sir William Wheeler had written to the prisoner; and it will be for you to consider, whether by showing them the second letter only, in which nothing is said about a suspicion of poison, and keeping back the first, he meant to mislead the doctors; and whether by his answer to sir William Wheeler, he also intended to mislead him; and that his answers should have that effect which sir William Wheeler swears it had upon his mind; that is, that sir William Wheeler should understand that the body had been inspected and opened by these gentlemen of the faculty. The first letter from sir William Wheeler the prisoner never produced at all, in which sir William had expressly intimated and spoken of the suspicions about the manner in which sir Theodosius Boughton got his death; wherein he strongly presses the opening of the body in different parts of his letter, mentioning the report of the country, that sir Theodosius Boughton had been killed by medicine or by poison; and in which at last he concludes, begging that the body might be opened. This letter the prisoner had, but this letter was not produced. For what purpose was it that this letter was secreted? If it were for the purpose of preventing the body being opened, and of preventing the doctors from making a fair and full examination in what way sir Theodosius did get his death, it is then a very strong circumstance in the cause; and you observe that both these witnesses swear, that if they had had any intimation of poison, which if they had seen that letter they must have had, they never would have gone away without opening the body; so that the body was not opened at that time by the means of this letter being kept back. But yet it is possible that the prisoner might suppose that sir William Wheeler's ideas were sufficiently communicated to the physicians and the surgeons by the last letter, and that therefore it was unnecessary to show the first, and that he did not do it with a view to suppress from them the suspicions that had been entertained abroad; and if you are of that opinion, then this fact ought to have no weight. The next fact spoken to is, the prisoner's behaviour about the clothes; he orders them to be taken out of the room before any person comes, he takes up the stockings himself, and says they are wet. Was that true? Lady Boughton swears, positively, that she examined the stockings; that they were not wet, and there was no appearance of their having been wet. Another fact which has been proved in evidence is, the conversation that the prisoner has held about this unfortunate young man before the time that this happened. Mr. Newsam says, he represented sir Theodosius Boughton to him in a very bad state of health, that his blood was a mass of mercury and corruption. Is that true? Two witnesses have been called who attended him, Mr. Powell and Mr. Carr, and neither of them say a syllable about any mercury being ever

given to him. The prisoner tells a story to Mr. Newsam about a violent swelling in the groin, which they wanted to bring to a head, and for that reason had endeavoured to prevail on the deceased to live well; but that he would not do; and that the disease was then at a crisis. Was that true? Mr. Powell does not agree in it, for he says it was very trifling, it was hardly above the skin; so that in this also he is contradicted by Mr. Powell. He told Mr. Newsam that sir Theodosius' breath was so offensive, they could hardly bear it. Of that there is no evidence either way.

"Then they go to facts subsequent to the time when Dr. Rattray was there. On the day after, Mr. Bucknill, the surgeon, goes, and desires leave to open the body. What is the prisoner's answer? Dr. Rattray and Mr. Wilmer have declined it, and it would not be fair in us to open it after gentlemen so eminent in the profession have declined it. What! in a case where a suspicion of poison had prevailed, where that had been particularly mentioned by a near friend and relation of the family, sir W. Wheeler, if a man was to be found who would open the body, was not the thing to be desired by every person? But that is refused. Afterwards Mr. Snow comes to the house; what passed between the prisoner and Mr. Snow, we have not heard; but when Mr. Bucknill comes back again, he asks the prisoner if Mr. Snow was gone. The prisoner told him yes, he had been there, and he had given orders what they were to do, and they were proceeding accordingly. What were the orders? were they any thing more than that the body should be buried? Those, the prisoner says in his defence, were the orders; but Mr. Snow is not called. You have had no evidence of any thing that passed between the prisoner and Snow. You are told by the prisoner, in his defence, that Snow advised him instantly to bury the body; and if that were all the advice given, why in such a case should not the prisoner call Snow to prove what passed between them, and what information he gave to Snow? or why did he not communicate to Bucknill the reasons given by Snow?

"But the prisoner chose to content himself with a general answer to Mr. Bucknill, that Mr. Snow had given orders what they should do, and they were proceeding accordingly. They then show you that the prisoner, for a long time before this, had been making use of a still; he had a still in the house, which he kept in a room that belonged to himself, and was called his room, and in which, at former times, he had been distilling different things. That is a circumstance to be considered, but it is a circumstance which, if alone, would not deserve much weight; for a man may have such a thing for a lawful purpose, and he had made use of it sometimes for an honest purpose, for he used it in distilling lavender and in distilling roses. But, however, this fact appears, that he had it in his possession long before the time when sir Theodosius Boughton died; that he produced it himself within two or three days after sir Theodosius' death; that it was then full of lime, and it was wet. The prisoner then thought it necessary to assign a reason for the state in which it was, and he tells the gardener he had used the lime to kill fleas. Now it is rather an extraordinary thing that it should be thought necessary by him, at that time, to make an excuse about the still, when no question had been asked about it. What other conversation is there between the prisoner and this witness, the gardener? In the morning of that day, the prisoner comes to the gardener, and tells him, 'You shall work at your ease now. I long wanted to be master before, but now I am got master, and I shall be master.' On the same morning he tells the gardener he must get some pigeons; that they must have them at ten o'clock for sir Theodosius; for, poor man, he is very ill with that nasty disorder. This must have been after he had seen him in a dying state; to what cause can we attribute his ordering pigeons to be killed, and got ready at such an hour as ten o'clock in the morning? The counsel suggest that the pigeons were to be put to the deceased's feet: this is a practice we must all have heard of; but if that were the design, how comes it, it was never mentioned in the room? Not a word is said to lady Bough

ton about it, or that any thing like it was to be done; but all the conversation that passed between her and him respects the bottle, and not a word of any thing that is likely to be of any use to sir Theodosius Boughton; though he is dying, and at the last gasp, soon after eight o'clock, the pigeons are not to be had until ten.

"Then, as to the conduct of the prisoner before the coroner. Lady Boughton had mentioned the circumstance of the prisoner's rinsing out the bottle; one of the coroner's jury swears that he saw the prisoner pull her by her sleeve. Why did he do that? If he was innocent, should it not be his anxious desire, as he expresses in his letter, that all possible inquiry should be made? What passes afterwards when they get home. The prisoner tells his wife that lady Boughton had given this evidence unnecesarily; that she was not obliged to say any thing but in answer to questions that were put to her, and that the question about rinsing the bottles was not asked her. Did the prisoner mean she should suppress the truth? that she should endeavour to avoid a discovery, as much as she could, by barely saying yes, or no, to the questions that were asked her, and not disclose the whole truth? If he was innocent, how could the truth affect him? But at that time the circumstance of rinsing the bottles appeared even to him to be so decisive, that he stopped her in the instant, and he blamed her afterwards for having mentioned it. Gentlemen, all these are very strong facts to show what was passing in the prisoner's own mind; they are strong facts to show what he was conscious of at that time. Besides that, the evidence that was given by one of the witnesses, of the conversation that the prisoner has held since he has been in the jail, is to be considered. You are told, that for a long time together, beginning within a month after he got into the jail, he was continually talking about this affair; at that time he made no doubt but that sir Theodosius Boughton had been poisoned. He stated it as a matter that admitted of no doubt. Within a short time past, that tale has been altered. Gentlemen, these are the material circumstances against the prisoner.

"The prisoner in his defence says, and which he would have you believe from the letter, that he has always been ready to give the utmost satisfaction in this inquiry; that he wished to have the body opened; that he expressed himself so to the different witnesses; that he wrote to sir William Wheeler, desiring him to come over to Lawford Hall, and begged that he (sir William) would be present at the time. You have heard the letters read, and the expressions that are made use of. In them he mentions the satisfaction which he received from sir William Wheeler's letter, and that it was his desire to have the body opened. He said to the surgeon that was examined, that it was his wish to have the body opened. But the question for you to consider is, whether, upon the whole of his conduct, he did endeavour to have the body opened; for if, upon the whole, he did not attempt to get the body opened, but has repeatedly prevented it, that will be much stronger than his saying, once, twice, or twenty times, that he wished it. If his wish had been sincere, why was the first letter of sir William Wheeler suppressed, and not shown to the physician? It is for you, upon the whole, to say whether you are satisfied that what he said in one or two of his letters, and what he said to the young man, the surgeon, was his real intention, and that he did mean that the body should be opened; or whether those expressions were only used to throw a blind upon the case, and still that he endeavoured by every artifice to prevent it. If he did prevent the opening of the body before it was buried, and meant to do so, you will consider with what view that could be done. Could it be done with any view but to suppress the truth? If you are satisfied, upon the whole, that the deceased was poisoned, the next question is, by whom was that poison prepared. You have been truly told by the counsel on the part of the prosecution, that it is perfectly immaterial what was the kind of poison. The indictment states it to have been arsenic. But it is not necessary, in point of law, to be proved that any arsenic was administered to the deceased; for

if you are satisfied that he was destroyed by poison, and that the prisoner mixed up that poison, and put it secretly in the place of a medicine, for the purpose of being given to sir Theodosius; and that it afterwards was given to him, and was the cause of his death; that is full evidence of the offence that is charged against him. Now with respect to his being the person, it must depend upon the evidence I have stated to you before. As against him every circumstance I have been speaking of is a degree of proof; and that circumstance (to which I can find no answer whatever) of his rinsing out the bottle, does carry strong marks of knowledge in him that there was something in that bottle which he wished should never be discovered.

"The prisoner, in his defence says, that he was not to gain any thing by sir Theodosius Boughton's death; that his affairs were so arranged, upon his marriage, that he never was to get any thing by sir Theodosius' death; and therefore, there was no motive that could have led him to the commission of this crime. Whether there was any settlement made on his marriage, or what that settlement was, has not appeared in evidence. The prisoner says further, that he had, in repeated instances, interfered to save this young man from scrapes. In one instance, it is proved that he did; and some evidence is given of another instance, though the witness says that matter was settled before the prisoner came. However, so far you must take that for the credit of the prisoner, that he did go for the purpose of mediation, and preventing mischief. Another fact of that sort was proved, by lady Boughton, to have happened at Bath; and she understood that the prisoner interfered there to put an end to a dispute sir Theodosius had with another gentleman.

"Now these are facts that are not to be forgotten; you will take them into your consideration, and give them all the weight that you think they in justice deserve; but you will observe that these quarrels are at a distance of time before the death of sir Theodosius. One of them is at the distance of two years, and that which lady Boughton speaks of, is, I think, about November, 1778; so that these are facts of his interposing to prevent any mischief that might arise in consequence of quarrels between the deceased and other persons at a period very distant from that which gave rise to the present inquiry. On the other hand, it is proved that the prisoner has represented this young man as in a dangerous state of health, not likely to live long, very recently before his death; and at a time when sir Theodosius Boughton appeared to others to be in good health and good spirits; for the clergyman speaks of a conversation on the Saturday before his death. You must take all the circum stances of the case together into your consideration, and remember that it is for you to form your own opinions, and to decide upon the fate of the prisoner; in the doing of which I am sure you will act according to the best of your judgment and your conscience, to find out the truth of the case; and as you find that truth, so you will pronounce your verdict."

The trial began at half after seven o'clock in the morning; at twenty-five minutes after six in the afternoon, the jury withdrew; they returned into court, at thirty-four minutes after six, with a verdict finding the prisoner *Guilty*.

SENTENCE.—*Mr. Justice Buller.*

"*John Donellan*,—The offence of which you now stand convicted, next to those which immediately affect the state, the government, and the constitution of our country, is of the blackest dye that man can commit. For, of all felonies, murder is the most horrible, and of all murders, poisoning is the most detestable. Poisoning is a secret act, against which there are no means of preserving or defending a man's life; and as far as there can be different degrees in crimes of the same nature, yours surpasses all that have ever gone before it. The manner and the place in which this dark deed was transacted, and the person on whom it was committed, much enhance your guilt. It was committed in a place where suspicion, at the instant, must have slept,

where you had access as a bosom friend and brother; where you saw the rising representative of an ancient family reside in affluence; but where your ambition led you proudly, but vainly, to imagine that you might live in splendour and in happiness, if he, whom you thought your only obstacle, were removed. Probably, the greatness of his fortune caused the greatness of your offence; and I am fully satisfied, upon the evidence given against you, that avarice was your motive, and hypocrisy afforded you the means of committing this offence; that the deed was done by you, which not only hastened him, but must very soon bring you, to an untimely grave, has been fully proved to the satisfaction of myself and the jury; and I think it is impossible to find any, even the meanest capacity amongst the numerous auditory standing around you, that can doubt about your guilt.

"In most cases of murder, it has pleased Heaven, by some marks or other, to point out the guilty person; and all the care and the foresight of the most cunning and the coolest offenders, have not been able to guard against some token, some unthought-of circumstance, which has left a door open to a discovery, which they imagined they had effectually barred up all access to.

"In your case, the false accounts given by yourself; the misrepresentations that you have held out to sir William Wheeler; the endeavours that you have used to prevent a full inquiry and discovery of the truth of the case; the strange conversations which you have held at different times; and, above all, the circumstance of rinsing out the bottle, leave your guilt without the smallest doubt. In such a case as yours, supported by such cogent proofs as have been adduced against you, you can receive nothing from the tribunal before which you now stand but strict and equal justice. But you will soon appear before an Almighty Judge, whose unfathomable wisdom is able, by means incomprehensible to our narrow capacities, to reconcile justice with mercy. Your education must have informed you, and you will do well to remember, that such beneficence is only to be obtained by deep contrition, by sound, unfeigned, and substantial repentance. May it please that great and awful Being, during the short time that is allotted for your existence in this world, to work that repentance, and that contrition in your mind, which may befit you for his everlasting mercy. But the punishment which the public has a right to demand, and which I must inflict upon you, is speedy and ignominious death. And the sentence which I now pronounce upon you is—

"That you be taken from hence to the place from whence you came; that from thence, on Monday next, you be carried to the place of execution, there to be hanged by the neck until you are dead; and that your body be afterwards delivered to the surgeons to be dissected and anatomized; and may God Almighty be merciful to your soul."—

On Monday, the second day of April, the prisoner was executed pursuant to his sentence.

From the Annual Register of 1781.

Captain Donellan, convicted of the murder of sir Theodosius Boughton, about seven in the morning, was carried in a mourning coach from Warwick jail to the place of execution, and hanged according to his sentence; after which, his body was given to the surgeons to be dissected. Before he was turned off, he addressed the spectators in the following terms. "That as he was then going to appear before God, to whom all deceit was known, he solemnly declared that he was innocent of the crime for which he was to suffer."

From the Gentleman's Magazine, August 30th, 1780.

August 31. Died at Lawford Hall, Warwickshire, sir Theodosius Edward Allesley Boughton, Bart. by whose decease the title and principal part of the family estates devolve to the late Shuckburgh Boughton, Esq.; the residue, to a very considerable amount, passes, in the female line, to the late baronet's sister, Theodosia Anna Maria Ramsay Beauchamp Boughton Donellan, wife

of John Donellan, Esq. late in the service of the hon. the East India company, by whom she has issue living, one son and one daughter. The friends of this young baronet, having found reason to suspect that some unfair practices had been used to put a period to his life, caused his grave to be opened, and his body taken out, though more than ten days after its interment. Four surgeons attended, and among other shocking symptoms, which seemed to confirm the current report that he died of poison, the tongue was found projected from the mouth, swelled to an enormous size, and turning upwards so as nearly to touch the nose; and the whole corpse was a spectacle of horror scarce to be endured. The surgeons were unanimously of opinion that he had been poisoned, but who were the instruments remains to be discovered."

One of the strongest recent instances in England of a conviction on conjectural evidence, previously to the very late case of Elizabeth Fenning, took place in 1781, in the affair of captain Donellan, who was condemned and executed for poisoning his brother-in-law, sir Theodosius Boughton, Bart.

Probably a course of events never existed, which, in calling for an exercise of judgment, required a greater attention to the relative situation of the principal actors. For this reason, it is thought better to open the present narrative with a brief account of the family connexion, which a sudden death, whether a murder or not, so inauspiciously dissolved; and to do so it will be proper, in the first place, to begin with a few particulars, explanatory of its formation, and of the previous life and habits of the accused.

Captain Donellan, the son of colonel Donellan, was educated at the Royal Academy, Woolwich, for the regiment of artillery, in which he received a commission, and proceeded very young to the East Indies. Unfortunately for him, his views in the army were terminated by some military misdemeanour, which, either by the sentence of a court-martial, or otherwise, obliged him to retire from active service. Whatever were the particulars, which at this distant period we have not been able to ascertain, his demerits could not have been very flagrant, as he received half-pay on the establishment of the 39th regiment of foot (for which he had left the artillery) until his conviction; and had thoughts of taking orders to enable him to enjoy two livings, which were in the gift of the Boughton family. It is but fair to observe, that the first of these facts presumes a mitigated *military* fault; and the second, that such fault was not aggravated by any notorious breach of moral duty. His marriage with Miss Boughton also took place with the general consent of her relations, which would scarcely have been the case had his character been materially impeached. Circumstances of this kind, however, operate most injuriously against a falling man; and so it proved with the professional disgrace of captain Donellan, which effected much in his disfavour when he became suspected of the murder of his brother-in-law.

It was in the year 1777 that his marriage with Miss Boughton, the sister of sir Theodosius, took place, the said brother and sister being the only surviving children of sir Edward Boughton, Bart. of Lawford Hall, in the county of Warwick. Sir Edward, by his will, left his son and daughter under the sole care and management of his widow, their mother, who called in the family aid of sir Francis Skipworth and sir William Wheeler, the former of whom died before sir Theodosius; and as to sir William Wheeler. he seldom acted but when lady Boughton especially required his advice and assistance.

At the time of his sister's marriage, sir Theodosius Boughton was just entering into his seventeenth year, and was a student at Eton, where Mr. and Mrs. Donellan paid him their nuptial visit, and soon after took up their residence at Bath. Although captain Donellan possessed little or no fortune of his own, it has been already observed, that the match was approved of by

the friends of the lady; to conciliate whom, the captain not only settled the whole of his wife's actual fortune upon herself, but also every thing which she might afterwards become entitled to, either by inheritance or legacy. Such was the apparently happy commencement of an alliance which ended so disastrously.

Whilst Mr. and Mrs. Donellan resided at Bath, they received a visit from lady Boughton and the young baronet, who had been removed from Eton in consequence of ill health arising from youthful imprudence. During this visit, sir Theodosius, being young and high spirited, engaged in one or two serious quarrels, from which, it was acknowledged on all sides, that the prudence and experience of captain Donellan were exerted to extricate him without a duel. Upon lady Boughton's return to Lawford Hall, she wrote in the most pressing manner to invite the captain and his lady to join her there, an invitation which they at first declined, but subsequently accepted; most unfortunately, as under every view of the case, it produced very melancholy consequences. The arrival of captain and Mrs. Donellan at Lawford Hall occurred in June, 1778, about a year after their marriage; and it appears they continued resident and domesticated there from that time until the fatal catastrophe in 1780.

It is clear from the general tenor of the evidence produced upon the trial, that the Donellans were not only at home at Lawford Hall, but that the influence of the captain there was very great. When it is considered that he was in the maturity of active life, that is to say, in his seven or eight-and-thirtieth year; that lady Boughton was aged, and that the baronet was barely twenty at his death, his ascendency will not appear surprising. Other circumstances tended to give him this weight; lady Boughton was not a very intellectual woman, and her ill-fated son appears to have been occupied entirely by his pleasures. During this trial, much stress was laid upon captain Donellan's frequent prognostications of a fatal termination to the irregular course of his young brother-in-law, as if they were uttered by him to preface the catastrophe which he premeditated; but let the facts be fairly attended to, and what could be more natural than such predictions from an individual of his age and experience. The first visit he paid to the imprudent youth was at Eton; he had not then completed his sixteenth year, and yet was under the care of a medical gentleman, for a complaint which it is unnecessary to name. From Eton he was removed to Northampton, and placed under the private tuition of a Mr. Jones; and it is proved that he was attended there for something similar. It further appears, that he indulged in the dangerous habit of prescribing for himself, and that he was continually taking physic; and lastly, he was again infected at the time of his death, slightly, according to the apothecary who attended him—but what was the truth?—why, that the said apothecary treated his complaint rather slightly; but in a few days was called in again, upon the manifestation of a symptom which, although no adequate cause for immediate apprehension, was confirmatory of virulent disease. Such being the uncontradicted facts, in common candour, ought general expressions anticipating the premature death of so early a victim of intemperance, to be considered as at all remarkable, particularly when accompanied with advice both to his mother and to himself? Or is it wrong from such data to say, in narrative, that sir Theodosius Boughton *was* what captain Donellan, with truth, if not with delicacy, described him to be—a young man, whose early and repeated imprudence bade fair to shorten his existence?

Such, with the addition of the unhappy Mrs. Donellan, was the family circle at Lawford Hall; and if to the foregoing particulars it be added, that the latter was heir-at-law to the larger part of her brother's fortune, if he died without legitimate issue; and that the ostensible views of captain Donellan were to take orders to enable him to enjoy the two livings in the gift of sir Theodosius—the reader will be furnished with a tolerably faithful out-

line of the relative situation of this family, when the fatal circumstance occurred, which threw it into so much confusion, and which is now to be described from the testimony of lady Boughton, as delivered before the coroner. This particular deposition it will be proper to give at large, as it was the deponent's *first* account of the melancholy transaction; and in the subsequent trial she materially varied in her explanation of the identical fact which decided the fate of the prisoner at the bar.

"Anna Maria Boughton, of Little Lawford, in the county of Warwick, widow, upon her oath, saith, that the deceased was her son; that for a considerable time before his death, he took various medicines which were sent to him from a Mr. Powell, a surgeon in Rugby, which sometimes occasioned the deceased to keep his room. That on the 30th of August last, this examinant went into his room to give him part of the medicines sent for him from the said Mr. Powell; and that about seven o'clock in the morning of the same day, this examinant, by the direction of the deceased, gave him the medicine contained in one of the phial bottles then standing upon the mantlepiece of the deceased; that she perceived, upon pouring it out into the basin to give to the deceased, a large quantity of powder or sediment at the bottom of the phial; that it had a *very offensive and nauseous smell;* that the deceased complained very much of the nauseousness of the medicine, and that he thought he should not be able to keep it upon his stomach; that there was a label upon the bottle, in which the medicine was contained, expressing the medicine to be the purging potion for sir Theodosius Boughton. And this examinant saith, that she cannot tell whether there were any other bottles in the deceased's room containing the same medicine. That John Donellan, Esq., this examinant's son-in-law, *being informed by her of the situation the deceased was in, came up-stairs to this examinant;* and after being informed by this examinant of the medicine she had given him, desired her to give him the bottle; and that he then *put water into the bottle, and poured it and the settling of the bottle out together; put his finger into it, and informed this examinant it had a nauseous taste.* And this examinant further saith, that the deceased, immediately after taking the medicine, seemed as if he was going into convulsions for a considerable time; but after that appearance had subsided, the deceased seemed as if he was going to sleep; upon which this examinant left the room, and returned back in the space of about five minutes, when she found the deceased with his eyes fixed, his teeth set, and the froth running out of his mouth; and that he expired in a few minutes afterwards. And this examinant further saith, that the composition or mixture contained in the bottle given by her to the deceased, *was something in colour to that produced and shown to her by the said Mr. Powell,* at this the time of her examination, but to the smell very different, to the best of this examinant's information and belief. ANNA BOUGHTON."

One of the strangest circumstances attendant upon a death so alarming was the subsequent conduct of lady Boughton: it would seem from her further deposition on the succeeding day, and on the trial, that the rinsing of the bottles by captain Donellan struck her as exceedingly suspicious and improper, yet neither these suspicions, nor the suddenness of her son's death upon the swallowing of a medicine, induced the good lady to take the arrangement of the funeral out of his hands, or even to interest herself to have any surgical inspection of the body. In so calm a way, indeed, did this calamity pass over, that on the Saturday following the Wednesday on which it took place, the deceased was absolutely soldered up in his coffin. Public attention, however, had been strongly excited; and poison being very generally suspected, the tendency of these suspicions at length reached the ears of the assistant guardian, sir William Wheeler, who wrote a polite note to captain Donellan, informing him of the nature of the prevalent rumour, and

the necessity there was to do it away by a professional examination of the body. The reply of captain Donellan was prompt and acquiescent; and also expressed a wish that sir William Wheeler himself would attend. The three practitioners, with an assistant, however, arrived by themselves, and were informed by the captain that they were called upon to open the body of the deceased—for what?—"the satisfaction of us all;" but he did not mention the suspicion of poison. It is remarkable that upon this intimation, the gentlemen, finding that owing to the putridity of the body, the operation would be attended with danger to themselves, declined it—on the ground, that in its then state, it would not determine the cause of the death; and captain Donellan was blamed for not inducing them to operate, at all hazards, by resting on the suspicion of poison, or, in other words, on the suspicion that he was himself the murderer of his brother-in-law. More than this; in giving sir William Wheeler an epistolary account of this visit, he left it ambiguous whether the body had been opened or not; but then, on the other hand, he requested one of the gentlemen himself to call on the baronet, who promised to do so, but did not. It further told against him that on the next morning, Mr. Bucknill, a surgeon of Rugby, having heard that the former gentlemen had declined operating, called at Lawford Hall, and offered to take out the stomach at his own risk; but the captain declined, on the ground of unfairness to the other professional gentlemen, unless directly authorized by sir William Wheeler; and in consequence, Mr. Bucknill went away. Of this visit sir William heard, and wrote again, requesting that Mr. Bucknill and his own apothecary, Mr. Snow, might do what it was so desirable should be done; but here another jostle of circumstances took place. Owing to their professional engagements, the two gentlemen missed each other; Mr. Bucknill, who came first, was called away to a dying patient; and when he returned, Mr. Snow had arrived, and from a sense of danger, having declined opening the body, was departed, and therefore there was no more to be done. Captain Donellan, upon this, proceeded with the funeral, which took place the same day, between three and four o'clock.

In all these transactions, it is very remarkable that although the suspicion of poison could, and did, attach to captain Donellan only, yet he was strangely permitted to arrange every proceeding which was to produce satisfaction, and that by the mother of the deceased, who was very early alarmed at his equivocal conduct.

But, although the interment was effected, when it became generally known that the body had not been opened, the minds of all orders of people were alarmed, and it was laudably insisted upon by the gentlemen of the neighbourhood that the deceased should be taken up, the coroner be called, and a surgical examination take place by course of law. This was done accordingly, and the depositions on the first day of examination were, in substance, as follows:

That of lady Boughton has already been given.

Mr. Powell, the apothecary, who supplied the draught, the taking of which was followed by the death of sir Theodosius, deposed, that it was a mixture consisting of jalap, rhubarb, spirits of lavender, simple syrup, and nutmeg water.

Sarah Steane, who laid out the deceased, simply stated, that to the time of the body being placed in the coffin, it appeared the same, in every respect, as any other corpse.

William and Samuel Frost, servants, deposed, that the evening and morning preceding his death, the deceased appeared to them to be in good health and spirits.

Mr. Wilmer, a surgeon, one of the professional gentlemen who declined opening the body in the first instance, because its putridity rendered satisfaction from the operation *hopeless*, now deposed, that such had been his *expressed opinion;* and further, that being present at the opening of the body when

disinterred, he found all the contents of the abdomen, or lower belly, more or less inflamed, and putrid; the upper part of the intestinal canal more inflamed than the lower part; the texture of the kidneys destroyed, and the internal substance bloody, and of a red colour; the omentum, or caul, tender in its texture, and inflamed; the liver smaller than usual, and soft in its texture; the stomach much altered from its natural state, but not so much inflamed as the parts in its neighbourhood; that it contained somewhat less than an ounce of brown coloured thick fluid, which, when taken out and examined in a basin, discovered no grittiness, or any metallic particles; that the midriff was particularly inflamed; the lungs putrid and inflamed, and in some parts black, *and on each side of the lungs, in the cavity of the thorax, or chest, was about a pint of extravasated blood in a fluid state.* Mr. Wilmer further averred, that he had seen the mixture furnished by Mr. Powell, and that such draught or mixture could not, at any time, occasion the death of the deceased; and that, for the reasons before suggested by him, he was induced to believe that it was "*then impossible to tell what occasioned the deceased's death.*"

Dr. Rattray corroborated the whole of the above; but added, that he believed, from the deposition of lady Boughton, that the medicine administered by her caused the death of her son.

Mr. Snow, a surgeon, merely confirmed the depositions of Mr. Wilmer and Doctor Rattray *generally*.

Mr. Bucknill deposed to the same purpose, with the additional confirmation of Dr. Rattray's opinion, as to the draught administered by lady Boughton being the immediate cause of her son's death.

Such was the result of the first day's examination before the coroner, which was thought to afford little that was conclusive against captain Donellan; but an opinion was nevertheless formed there, that lady Boughton was overawed by her son-in-law, and the next day, at the adjourned examination, the result of some recent operation upon her mind was very manifest; for her first account of the conduct of captain Donellan with respect to rinsing the phials, was thus materially, and for him, fatally modified.

Without reference to her former statement, "*that Mr. Donellan put water into the bottle, and poured it and the settling of the water out together; put his finger into it, and informed her that it had a nauseous taste,*" lady Boughton *now* declared, that when captain Donellan was told of the effect of the medicine upon the deceased, he asked where the bottle was that had contained it; and upon it being pointed out to him, he "swilled the bottle out with water, and threw the water and the medicine which was left at the bottom of the bottle, *upon the ground.*" That upon her expressing her surprise that he should do so, he said, that it was in order to taste it; but that he *did not taste it*, but proceeded to empty a *second* bottle, which stood upon the deceased's mantle-piece, but what was contained therein she knew not. That after throwing away the contents of the second bottle, captain Donellan ordered Sarah Blundell, who was then in the room, to take the same away; but that examinant objected to such removal, and desired the servant to leave them where they were; that captain Donellan, however, still persisted in his orders; and she believed they were removed accordingly. Lady Boughton further observed, that upon her return home from the last examination, captain Donellan, who had heard it taken, had expressed surprise and displeasure at her then deposing that he had rinsed the bottles, and told her that she was only obliged to answer such questions as should be asked. That she had heard captain Donellan advise her son to keep his medicine in his first room, and not in an *inner* room, which he kept locked; whereas any part of the family might have access to the former. Finally, she deposes that the circumstance of the said captain Donellan's swilling the bottles, led her to suppose "*that some unfair dealings had been carried on respecting her son, and that he had died by the medicine she had given him.*"

The most trifling inconsistency of captain Donellan was observed with an *animus* decidedly against him; but what can account for the conduct of this extraordinary old lady—not with respect to the manifest opposition of her two depositions—it may be admitted, that she was overawed in the first instance; but what is to be pleaded for a mother who imagined that her son died by a medicine administered by herself, who, from the deportment of captain Donellan, was led to suspect "unfair dealings" on his part, and who yet left every subsequent arrangement which could advance or retard discovery, to the person so suspected, without the slightest remonstrance or interference!

This evidence, which was corroborated by Sarah Blundell, in the particular fact of her being ordered to take away the bottles, and clean the room, by captain Donellan, was conclusive; the coroner's jury, and it could do no otherwise, brought in a verdict of wilful murder against him, and he was immediately committed for trial.

Unfortunately for captain Donellan, in consequence of the assizes having been recently concluded, his trial did not come on until seven months after the alleged offence, during which interval the popular odium was excited against him to an unprecedented degree. The most virtuous emotions, when guided principally by impulse, are not unfrequently the most unjust, and so in the present instance they proved to be. The horror inspired by the probability of a domestic perfidy so atrocious, as the murder imputed to the unhappy prisoner, and an eagerness to punish it, seemed to overwhelm the impartiality of the whole community. They might be said to operate where they never should operate, in the court of justice itself; judge, jury, and witnesses seemed to be carried away by them; they appeared to animate the counsel for conviction, and to paralyze that for defence. To detail the whole of the proceedings upon a trial so complicated would be useless. This sketch will therefore confine itself to a species of commentary upon the evidence, not only as delivered, but as subsequently corrected by notorious fact, not with a view of rivalling the sagacious judge who presided, but for the honest purpose of adding to the weight of opinion now existing against a too great latitude of presumption, in convicting upon what is popularly termed, *circumstantial evidence.*

Mr. Powell, the apothecary, who was first called, proved, as before, the nature of the draughts sent by him to sir Theodosius Boughton, and described him to have been at the time slightly indisposed of a venereal complaint, and that he gave him nothing but cooling physic and an embrocation. That when he reached Lawford Hall, in consequence of an express informing him of the dangerous state of sir Theodosius, the latter had been dead an hour; that he met captain Donellan in the court-yard, who went with him to see the corpse, in which he observed nothing particular; that upon asking how the deceased died, the captain replied, *in convulsions*, but put no questions to him in return; and that the *general intent* of the prisoner seemed to be to carry an idea that sir Theodosius had taken cold.

The evidence of lady Boughton on the trial varied as materially from both her depositions before the coroner, as one of them differed from the other. The general substance of her evidence, as affecting the prisoner at the bar, may be reduced to the following points:

That Mrs. Donellan would inherit £1200 per annum by the death of Theodosius.

That when lady Boughton once talked of quitting Lawford Hall, the prisoner advised her not to do so, as her son was in a bad state of health, and she knew not what might happen—a prediction which her ladyship then understood to allude to the danger incurred by sir Theodosius *in hunting*.

That her son was about to receive a week's visit from a Mr. Fonnereau, and to depart with him on a visit in return.

That one day captain Donellan, in her hearing, advised sir Theodosius to

keep his medicines in his chamber, which was always open, rather than in an inner room, which was usually locked.

That captain Donellan was absent from his wife and lady Boughton on the evening when the medicines arrived, and accounted for his absence by saying he had been to see sir Theodosius fishing.

That upon captain Donellan's coming into the room, and asking in what manner sir Theodosius was taken ill, he was shown the two draughts sent by Mr. Powell, the last of which had proved so fatal; that he took up one of them, and said, "*is this it?*" and upon being answered *yes*, poured some water out of a water bottle into the phial, shook it, and then emptied it out into some dirty water, which was in a wash-hand basin. That her ladyship observed to him, that he ought not to do so; but that he immediately snatched the other bottle, poured water into it, and shook it, and then put his finger to it and tasted it, saying, when remonstrated with upon the impropriety of meddling with the bottles, that he did it to taste the contents, but that he did *not taste the rinsings of the first phial at all.*

That the prisoner desired Sarah Blundell to take away the basin, the dirty things, and the bottles, and that he put the bottles into her hands; that her ladyship directed the servant to let the things alone, and took them from her; but that the prisoner, while her back was turned, gave the bottles to her again, as the said servant, who is since dead, informed her; that, previous to this second order, he had also directed that the room might be cleaned, and the clothes thrown into an inner room.

That during the whole of the foregoing scene, sir Theodosius was not entirely dead.

That some time afterwards, when her ladyship went into the parlour, captain Donellan observed to his wife, in her presence, that her mother had been pleased to take notice of his washing the bottles out, and that he did not know what he should have done if he had not thought of saying he put the water into it to put his finger to it to taste it. That her ladyship turned away to the window without reply, upon which he repeated the foregoing observation, and rang for the coachman to prove the time of his going out that morning.

That upon returning from the first examination before the coroner, captain Donellan said to his wife, before her ladyship, that she (lady Boughton) had no occasion to have mentioned his washing the bottle; and that she should only have answered the questions put to her.

Mary Lynes, the housekeeper, proved, that captain Donellan frequently amused himself with distilling roses; and Francis Amos, gardener, that he had brought him a still, with wet lime in it, to clean, a few days after the young baronet's death.

William Croft, one of the coroner's jury, swore that he saw the prisoner pull lady Boughton by the sleeve when she first deposed that he had rinsed the phial.

Sir William Wheeler proved the tenor of his correspondence with captain Donellan, relative to opening the body, as already related.

The three professional gentlemen who first attended to open the body, deposed, that they would have done so, at all events, had they been informed that poison was suspected; they also described the poisonous nature of *laurel water*, and proved that its effects upon animal life were similar to those of the draughts given to sir Theodosius. They also gave a positive opinion that the deceased died by a poisonous draught administered by lady Boughton, and that the appearance of the body was such as might follow the swallowing of a strong vegetable poison.

Doctors Ashe and Parsons, celebrated physicians, corroborated the opinions of the foregoing witnesses.

Mr. Bucknill, the surgeon who had volunteered to operate in the first in

stance, related his first and second visit to Lawford Hall, to open the body as already detailed.

Such was the tenor of the substantial evidence for the prosecution, the irrelevant it is unnecessary to notice.

To take the allegations in order, Mr. Powell, after proving the innocency of his own prescription, asserted, that the disorder of sir Theodosius was slight, and that he gave him nothing but cooling physic and an embrocation. This testimony, though apparently indifferent as it regarded the guilt or innocence of the prisoner, materially injured him, as it seemed to contradict his frequent allusions to his brother-in-law's irregularity, and to suggest that his motive for such imputation was to prepare expectation for his death. But the fact was, that this medical gentleman, though his answers in court seemed to confine his prescriptions to cooling physic and an embrocation, had administered bolusses of calomel—and, in fact, treated a venereal patient as venereal patients are usually treated. Respect for family feelings is *proper* in a medical man; but a regard to social justice is *necessary*. Neither was the behaviour of captain Donellan to this gentleman, when called in by express, more remarkable than his own, or that of lady Boughton, who joined them in the bed-room almost immediately. The captain told him that the deceased died in convulsions, but put no questions in return, neither did her ladyship; and the apothecary himself possessed similar apathy; for though death had apparently followed one of his own prescriptions, he acknowledged *in court* that he did not inquire how soon the convulsions ensued. Moreover, this important visit and double conversation took up ten minutes.

With respect to the evidence of lady Boughton, it first proves the interest of the prisoner in the death of his brother-in-law: this may be admitted; but still it ought to be understood that it was not so great as the world imagined. He had only Mrs. Donellan's life in the estate, which was deeply encumbered, except as the guardian of his children; on the other hand, by the survival of sir Theodosius, he would have secured church preferment to the amount of five hundred pounds per annum.

The next point was, his advising lady Boughton not to leave Lawford Hall on account of her son's ill health, as she knew not what might happen. Her ladyship thought this prediction alluded to the danger incurred by sir Theodosius in hunting—but what has ill health to do with hunting? It is shocking to see a wish to conceal from the world, that an intemperate young man had injured his constitution, furnishing a foundation for surmises affecting the life of an individual. To say nothing of the absurdity of coupling ill health with hunting—what was there in this testimony to impeach captain Donellan? Her ladyship deposed that upon another occasion, the prisoner recommended her not to drink after sir Theodosius, on account of the nature of his medicines. Could he have thus addressed a mother who was unconscious of her son's irregularities—a mother, too, who frequently administered physic to that son herself? Another conversation of the same tendency was deposed to by a clergyman of the name of Newsam; but again, it may be said, what do these observations signify, backed as they were by facts?—they may indicate a want of generosity and delicacy, probably, but certainly do not *prove* an intention, on the part of the prophet, to hasten the fulfilment of his own predictions.

The next point deposed to by lady Boughton was, that her son was about to receive a visit from a Mr. Fonnereau, and to return it. Nothing can more clearly show the shadowy nature of many of the surmises against the prisoner, than the inference sought for from this fact. It appears that a report existed in the country that sir Theodosius admired Miss Fonnereau, and therefore captain Donellan hastened to poison him before he went.

Then follows captain Donellan's advice to sir Theodosius to keep his medicines in his open chamber. The latter acknowledges to some such advice, but very naturally accounts for it; sir Theodosius made up poisons for rats,

&c., and told him and lady Boughton that he had nearly taken some of it himself instead of physic, upon which he was recommended to keep his physic and his poison separate.

The succeeding allegation of lady Boughton proved very fatal to the prisoner; namely, that he was absent during the afternoon the draughts arrived, and that when he returned, he said he had been to see sir Theodosius fishing. That he had not been to see the fishing party was clearly proved; and captain Donellan denied that he had said so, and instructed his counsel to call two persons of the name of Dand and Matthews, to show that he was in conversation with them during the whole of his absence; but this the counsel did not do, fearing they would not be able to prove *all* the time. Of this neglect the prisoner very bitterly complained; and his very respectable solicitors, in a publication given to the world after his execution, testified that the evidence of the men in question would have materially contradicted that of lady Boughton.

The principal fact, however, deposed to by lady Boughton, was the rinsing of the phials. Her various and contradictory accounts of this transaction before the coroner and the court have been detailed. The prisoner himself accounted for it, by saying, that when informed by lady Boughton of what had happened, he asked her what she had given to her son, and where the bottle was, and, upon its being pointed out to him, took it, and held it up to the light; and finding it apparently clean and dry, put a tea-spoonful of water into it, rinsed it well, and poured it into a small white basin then on the table, in order to taste it with his finger, which he did several times, and declared it very nauseous. That he also tasted several more medicines, which stood on the mantel-piece, on which there were many phials, gallipots, &c. which smelt very offensively; and observing lady Boughton begin to put the room in order, he told Sarah Blundell to help her ladyship, and particularly to remove a chamber-pan. That happening to stand near the chimney-piece, when she began to take away the phials, he very innocently handed some to her, &c. &c.

Now it is not for a moment contended, that this account of an accused person is to be weighed against that of a competent and clear-headed witness; but could an elderly lady be called such, who, on her first examination, mentions his rinsing *one phial only*, and on the second, swears circumstantially *to two*; on the former, that he tasted the contents of the only phial that he rinsed, and declared the taste of them; on the latter, that he rinsed two and *tasted neither*. On that, she swore generally that he poured the water out, but with an apparent intimation that it was poured into some vessel, into which he put his finger: on this she expressly declares that the contents of the first phial were thrown upon *the ground*; and indefinitely, that the contents of another were thrown *away—there* he actually tastes the contents of the bottle, *here*, after rinsing the first, he only *says* that he did so to taste them.

So much for the contradictions before the coroner; the testimony of lady Boughton in court was equally inconsistent with the most formidable of these depositions. The only point in which these two last correspond is, that two phials were rinsed, and this correspondence serves only to make the other circumstance more plainly incompatible; for the water from both phials, by the written testimony, was thrown upon the ground; by the oral, was poured into a basin of dirty water; by that, *neither was tasted*; by this, the last certainly was. On the former occasion, her ladyship swore that captain Donellan threw something out of a second bottle, which stood upon the deceased's mantel-piece, and that she did not know the contents. On the latter, that he poured water into the OTHER BOTTLE, and emptied it out. Finally, before the coroner, she stated, that the apology, "*I did it to taste it*," was made by captain Donellan on her remonstrance, after his rinsing the *first* phial; and on the trial swears, that he spoke those words after rinsing the *second*, in

consequence of some words from her, which in the depositions are not mentioned at all, and that he gave no answer whatever to her *first* expostulations. Not one of which inconsistencies were pointed out, either by judge or counsel.

Of the fact, that captain Donellan ordered Sarah Blundell to clear the room, his own account has been stated, that he was angry at her for not immediately obeying him, rests upon lady Boughton's testimony, that Sarah Blundell told her so—all she herself could speak to was, that they were taken out, but she knew not exactly when. Sarah Blundell's deposition before the coroner only states generally, that captain Donellan ordered her to clear the room, and assisted her to take away the bottles. Sarah Blundell died before the trial.

The next circumstance deposed against the prisoner was, that he said to Mrs. Donellan, in her presence, that her ladyship had found fault with him for rinsing the *bottles*, and that he did not know what he should have done if he had not *thought of saying* "he put the water into *it* to put his finger in to taste *it*." That captain Donellan used these exact words is very unlikely, as they are both ungrammatical and absurd, not to mention the weakness of such an admission. That he alluded, however, to the circumstance, is very probable; but how is it possible to rely on the memory of lady Boughton for this event, who made no mention of the circumstance before the coroner, and yet positively swore in court, both directly, and on cross-examination, that she had done so.

That captain Donellan blamed lady Boughton for deposing before the coroner to his rinsing the phials, and that he told her she needed only to have answered such questions as were put to her, was not denied by him, though the testimony of the juryman, as to his pulling her sleeve at that particular moment, he asserted to be incorrect. Lady Boughton could have decided the last point, but was not examined on it by either counsel; but, admitting both the facts, they prove but little. An innocent man, if not perfectly acquainted with the obligation of an oath in judicial inquiries, speaking to a supposed friend, might naturally so argue. Grant for a moment the unfortunate man was innocent—he had inconsiderately rinsed a phial to taste it, and found it rendered him suspected of murder; he believes lady Boughton satisfied of his innocence, and therefore, thinks, that in divulging a fact which might subject him to unmerited imputation, she acted unfriendly. All this is as consistent with the warmth of innocence as with the alarm of guilt.

Mary Lynes, the housekeeper, proved that captain Donellan sometimes distilled roses and lavender; and Francis Amos, gardener, that a few days after the death of sir Theodosius, he brought him a still, with wet lime in it, to clean. Of these points presently.

The tenor of the correspondence proved by sir William Wheeler has been already related. It certainly shows that captain Donellan was not anxious to have the body opened, neither was lady Boughton. Moreover, when the operators attended, he did not tell them that poison was suspected, or show that letter from sir William Wheeler which pointedly said so—but another, which conveyed the same meaning less forcibly—or, in other words, which simply stated that it was necessary to give the public satisfaction. Again, he did not accept of a voluntary offer to operate, after three gentlemen had declared such operation useless and dangerous; and finally, when two gentlemen accidentally missed each other, and one of them declined opening the body, and, as agent of sir William Wheeler, authorized the funeral, that the prisoner sent the other away. In answer to all this, it is necessary to say little more, than that many persons, as well as captain Donellan, might not like to expatiate upon a suspicion of poison, which could only attach to themselves, and that, after his imprudence with respect to the phials, even an innocent man would be glad to get the funeral over.

The testimony of the three medical gentlemen, that they would have opened the body at all risks, if they had been aware of the suspicion of poison, must be implicitly admitted, though a little at variance with their declarations, that the body was too putrid to decide upon the case. That the same gentlemen, with Doctors Parsons and Ashe, *believed* that the draught administered by lady Boughton, caused the death of her son, must also be admitted; and that laurel water is a poison, cannot be denied. But the correctness of the opinions and deductions of this medical junto was controverted by a testimony of far greater weight than those of all of them united.

But first, the reader will very naturally inquire, what laurel water has to do in this case? Briefly, then: Captain Donellan, as may be seen from the testimony of the housekeeper and gardener, sometimes amused himself by distilling from roses and lavender, with a still in the possession of the family. Lady Boughton, although she described the draught administered as smelling very nauseous, also resembled its odour to that of *bitter almonds*, which scent is not *nauseous*, but peculiarly characteristic of laurel water; and generally speaking, its effects upon animal life were proved not to be dissimilar to the sufferings of the deceased. Ergo, laurel water poisoned sir Theodosius Boughton: the strangeness of this inference, at least as conclusive, will appear more strongly, when it is stated to have been so entirely an afterthought, that the indictment called the poison *arsenic*, and the most lively of the medical gentlemen had as strongly decided upon that presumption, as upon the one subsequently preferred. With respect to the distillation of laurel water by captain Donellan, no proof of any kind was offered, other than that some days after the death of sir Theodosius, he gave a still, with wet lime in it, to the gardener to clean, which wet lime was held to be placed there for the purpose of carrying away the smell of his poisonous operations. According to the prisoner himself, this lime water was intended to wet his bedstead, and those of his children, to kill the vermin, and the still was merely used as an utensil to hold it; for the truth of which statement he appealed to the female servants, who had often seen him so employ it. He also acknowledged, that he had sometimes used laurel leaves, with other ingredients, as a bath for his feet, agreeably to a printed recipe, in a book entitled "The Toilet of Flora."

Will it be credited that on such a string of negation and surmise, the employment of laurel water, against sir Theodosius Boughton, seems on the trial to have been taken for granted?

The evidence for the prosecution alone has been yet attended to; that for the defence was very brief, but cogent. In the first place, it was proved that captain Donellan had more than once interfered to make up quarrels for sir Theodosius, which might have been attended with danger. In the second, there was the testimony of the celebrated John Hunter, which may be held out as a beautiful specimen of the caution required in the delivery of professional opinions, and of the calm resolution with which science should maintain its decisions in the face of authority, whether partial, prejudiced, or overbearing.

The cross-examination of the eminent surgeon, Hunter, was still more decided—simply admitting that death following the taking of a draught was suspicious, he wholly denied that it was necessarily caused by it; and asserted that any symptom and appearance on opening the body of the deceased, or, as described by lady Boughton, might be furnished by the epilepsy or apoplexy. As the father of sir Theodosius died of the latter disorder, he was asked if it were likely to attack a thin young man, under a course of cooling physic; he answered certainly not *so* likely; but that he had known two instances of young women dying of apoplexy.

This testimony, though that of a man whom all Europe regarded as an oracle in his profession, did not avail; the judge chose to consider it as one

to four, and captain Donellan was convicted of poisoning by laurel water because a draught smelt like bitter almonds, and executed for a death which no one had proved a murder.

It will be seen that all the presumptions formed against the prisoner, in this striking case, arose out of a conduct which exhibited what every one might term uneasiness, but which the multitude called conscious guilt. The truth was, captain Donellan soon perceived that he was suspected; and indeed suspicion, on the ground that *interest* is the *rock* of the *accused*, could fall on no one else. The rinsing of the phials was, doubtless, a suspicious fact; but testified as it was, by a witness a thousand times more inconsistent than the prisoner; whether it was done to taste the fatal potion or not, is left wholly inconclusive. Lady Boughton says, that this foolish action—foolish, if he was innocent, but insane if he was guilty—alarmed her at the time, and something she doubtless said about it, but she must have been soon satisfied, for it neither induced her to act or to remonstrate any further. To have her son opened, even when a suspicion of poison became general, she thought of no use; she never interested herself to talk with the professional gentlemen on the subject, but left every thing to the person suspected. When at last, set about recollecting every minute particular against captain Donellan by the surrounding gentry, alarmed at the blame imputable to herself, she deposed to transactions in haste, and incoherently, and never agreed twice in the most important part of her testimony. That the inconsistencies of this lady, though doubtless unintentional, should not have been urged on the trial, was peculiarly unfortunate for the prisoner; but captain Donellan's counsel strangely omitted to notice them.

All the other alleged instances of conscious guilt displayed by this unhappy gentleman, may be as naturally referred to the uneasiness of a mind, tortured by suspicion, and dreading imputation as to actual guilt, and consequently afford no conclusion. It is a fine thing to expatiate upon the security of conscious innocence; but every man of worldly experience knows how much it may be confounded by general suspicion, and consequently how tortuous and evasive it may become. The compiler of this article once saw a well-informed individual under a suspended accusation of several days, and he evinced every acknowledged sign of conscious guilt that can be named, even until his pretensions to innocence excited roars of laughter; and yet, innocent he was, after all.

It is not, however, the object of this statement to assert the *innocence* of captain Donellan, but to show that he was convicted upon a species of evidence the most fallacious and inconclusive. It is pleasant for a judge to assert, as in this instance, that presumption from circumstances is as strong as positive testimony; while experience shows that innocence has frequently fallen a sacrifice to the one, and but seldom to the other.

A late very acute publication, on the theory of presumptive evidence, thus argues on the case of captain Donellan.

"When the judgment of the law is passed in reference to a certain thing, the existence of that thing should be first clearly made to appear.

"The fact of poisoning ought to have been established, beyond a shadow of doubt, before any person was convicted as the poisoner.

"But the jury, it will be said, were satisfied on this point. Had the evidence been duly summed up by the judge; had they been told, as they ought to have been, that in experimental philosophy, such as tracing the effects of a particular poison, in tracing the causes, so many and so complicated, that lead to death, if the experiment is defective, if the process is vitiated in one instance, the result is also vitiated and defective. Every practitioner in philosophy is sensible and aware of this truth; and whenever he finds that he has erred in his experiment, he sets the case aside, as affording no satisfactory result, and renews his process in another subject.

"But, unfortunately, it is a matter of pride in some men to be always cer

tain in their opinion, and to appear beyond the influence of doubt. Very different was the practice of that modest and eminent man who gave his evidence on this trial; he was accustomed to the fallaciousness of appearances, to the danger of hasty inferences from imperfect proofs, and refused to give his assent to an opinion, without facts being first produced to support it. 'If I knew,' said Mr. Hunter, 'that the draught was poison, I should say, most probably, that the symptoms arose from that; but when I don't know that the draught was poison, when I consider that a number of other things might occasion his death, I cannot answer positively to it.'

"During the whole course of this celebrated trial, there was not a single fact established by evidence, except the death, and the convulsive appearances at the moment. These appearances, Mr. Hunter declared, afforded no suspicion whatever of poison, and were generally incident to sudden death, in what might be called a state of health; not only there was no fact proved, but there was not one single circumstance proved. One circumstance was supposed from another equally suppositious, and from two fictions united a third was produced. All proof should commence at a fixed point; the law never admits of an inference from an inference. The question is never as to what a thing is like; but the witness must swear to his belief, as to what it is. The circumstance is always a fact; the presumption is the inference drawn from that fact. It is hence called presumptive proof, because it proceeds merely on opinion. But the circumstance itself is never to be presumed, but must be substantively proved. If it was not laurel water that sir Theodosius drank, the proof fails as to the effect; and, certainly, some of the usual proofs, some of the common *indicia*, or marks, should have been established. When did the prisoner procure it? From whom did he obtain it? Where, and at what time—and by whom, or how did he administer it? Nothing of this kind was proved.

"But the accused, it is said, furnished the proof against himself, by his own distrust of his innocence. He, no doubt, betrayed great apprehensions of being charged with the murder; but is an innocent man never afraid of being thought guilty?

"We readily recognise all the general truisms and commonplace observations, as to the confidence of innocence, and the consciousness of guilt; but we find from history, that innocence loses its confidence when oppressed with prejudice; and that men have been convicted of crimes which they never committed, from the very means which they have taken to clear themselves."

The author then relates a celebrated instance from Hale's Pleas of the Crown, v. 2, p. 290.

It remains but to observe, that captain Donellan suffered pursuant to his sentence, on the 1st of April, 1781, at Warwick; that he died with perfect resignation, and uttered solemn protestations of innocence to the last moments of his life. From papers left behind him for the purpose, a very elaborate and well written defence was composed, and published almost immediately after his death; it produced a great sensation at the time, and it is believed the most eminent lawyers have latterly regarded this conviction with distaste. It is from the documents in question, and the authenticated trial, that this statement has been drawn up for the present work, in which it properly finds a place, but could not conscientiously be given, without protesting against the conviction as a precedent for the sound administration of justice

SIR WALTER RALEIGH,

TRIED AT WINCHESTER, UPON AN INDICTMENT OF HIGH-TREASON, IN THE FIRST YEAR OF THE REIGN OF JAMES I., A. D. 1602.

The arraignment of sir Walter Raleigh, knight, at Winchester, Thursday, 17th of November, anno 1603, before the right honourable Henry Howard, earl of Suffolk, lord-chamberlain; Charles Blunt, earl of Devonshire; lord Henry Howard, afterwards earl of Northampton; Robert Cecil, earl of Salisbury; Edward lord Wooton, of Marley; sir John Stanhope, vice-chamberlain; lord chief-justice of England, Popham; lord chief-justice of the common pleas, Anderson; Mr. Justice Gaudie, Mr. Justice Warburton, and sir William Wade, commissioners.

Sir Walter being brought to the bar, he sat down upon a stool, within the place made on purpose for the prisoner to be in while waiting the coming of the lords. During which time he saluted divers of his acquaintance with a very cheerful countenance: when the commissioners were all met, having stood up a while, he desired the marshal to ask leave of the lords that he might sit, which was granted him; and then they proceeded to the arraignment.

First, The commission of oyer and terminer was read by the clerk of the crown-office; and the prisoner commanded to hold up his hand.

The indictment was then read, which was in effect as follows:—

"That he did conspire and go about to deprive the king of his government; to raise up sedition within the realm; to alter religion, to bring in the Roman superstition, and to procure foreign enemies to invade the kingdom. That the lord Cobham, the ninth of June last, did meet with the said sir Walter Raleigh in Durham-house, in the parish of St. Martins in the Fields, and then and there had conference with him how to advance Arabella Stewart to the crown and the royal throne of this kingdom; and then and there it was agreed that Cobham should treat with Aremberg, ambassador from the archduke of Austria, to obtain of him 600,000 crowns, to bring to pass their intended treasons. It was agreed that Cobham should go to the archduke Albert, to procure him to advance the pretended title of Arabella; from thence knowing that Albert had not sufficient means to maintain his own army in the Low Countries, Cobham should go to Spain to procure the king to assist and further her pretended title.

"It was agreed, the better to effect all this conspiracy, that Arabella should write three letters; one to the archduke, another to the king of Spain, and another to the duke of Savoy, and promise three things: first, to establish firm peace between England and Spain. Secondly, to tolerate the popish and Roman superstition. Thirdly, to be ruled by them in the contracting of her marriage.

"And for the effecting these traitorous purposes, Cobham should return by the isle of Jersey, and should find sir Walter Raleigh captain of the said isle there, and take counsel of Raleigh for the distributing of the aforesaid crowns, as the occasion or discontentment of the subjects should give cause and way.

"And further, that Cobham and his brother Brook met on the 9th of June last, and Cobham told Brook all these treasons; to the which treasons Brook gave his assent, and did join himself to all these; and after, on the Thursday following, Cobham and Brook did speak these words; 'That there would never be a good world in England, till the king (meaning our sovereign lord) and his cubs (meaning his royal issue) were taken away.'

"And the more to disable and deprive the king of his crown, and to confirm the said Cobham in his intents, Raleigh did publish a book, falsely

written against the most just and royal title of the king, knowing the said book to be written against the just title of the king; which book Cobham afterwards received of him. Further, for the better effecting these traitorous purposes, and to establish the said Brook in his intent, the said Cobham did deliver the said book unto him on the 14th of June. And further, the said Cobham, on the 16th of June, for accomplishment of the said conference, and by the traitorous instigation of Raleigh, did move Brook to incite Arabella to write to the forenamed princes, to procure them to advance her title: and that she, after she had obtained the crown, should promise to perform three things, viz. 1. Peace between England and Spain. 2. To tolerate with impunity the popish and Roman superstitions. 3. To be ruled by them three in the contracting of her marriage.

"To these motions the said Brook gave his assent. And for the better effecting of the said treasons, Cobham, on the 17th of June, by the instigation of Raleigh, did write letters to count Aremberg, and did deliver the said letters to one Matthew de Lawrency, to be delivered to the said count; which he did deliver for the obtaining of the 600,000 crowns; which money, by other letters, count Aremberg did promise to perform the payment of; and this letter Cobham received the 18th of June. And then did Cobham promise to Raleigh, that when he had received the said money, he would deliver 8000 crowns to him, to which motion he did consent; and afterwards Cobham offered Brook, that after he should receive the said crowns, he would give to him 10,000 thereof; to which motion Brook did assent."

To this indictment sir Walter Raleigh pleaded not guilty.

The Jury.—Sir Ralph Conisby, sir Thomas Fowler, sir Edward Peacock, and sir William Rowe, knights; Henry Goodyear, Roger Wood, Thomas Walker, and Thomas Whitby, esquires; Thomas Highgate, Robert Kempthon, John Chawkey, Robert Brumley, gentlemen.

Sir Walter Raleigh, prisoner, was asked whether he would take exceptions to any of the jury.

Raleigh.—It is my firm opinion that they are all Christians, and honest gentlemen; I object against none.

E. Suff.—You, gentlemen of the king's learned counsel, follow the course you may deem most expedient.

Raleigh.—My lord, I pray you I may answer the points particularly as they are delivered, by reason of the weakness of my memory and sickness.

Popham, chief-justice.—After the king's learned counsel have delivered all the evidence, sir Walter, you may answer particularly to what you will.

Heal, the king's sergeant at law.—You have all heard of Raleigh's bloody attempts to kill the king and his royal progeny, and in place thereof to advance one Arabella Stewart; the particulars of the indictment are these: First, that Raleigh met with Cobham the 9th of June, and had conference of an invasion, of a rebellion, and an insurrection, to be made by the king's subjects, to depose the king and to kill his children. But as money was required to do this, for money is the sinew of war, count Aremberg was to procure of Philip, king of Spain, five or six hundred thousand crowns, and out of this sum Raleigh was to have eight thousand. Then there must be friends to effect this; Cobham was to set out to Albert, archduke of Austria, for whom Aremberg was ambassador at that time in England, and persuade the duke to assist the pretended title of Arabella. From thence he was to depart to the king of Spain, and persuade him likewise to assist the said title. Since the conquest there was never the like treason. But out of whose head came it?—out of Raleigh's, who also advised Cobham to use his brother Brook to incite the lady Arabella to write three several letters as aforesaid in the indictment; all this was on the 9th of June. After this Cobham said to Brook, it will never be well in England till the king and his cubs are taken away. Afterwards Raleigh delivered a book to Cobham, traitorously written against the title of the king. Now whether these things were bred in a

hollow tree, I leave to them to speak of, who can speak far better than myself. And thereupon he sat down again.

Sir Edward Cook, the king's attorney.—I must first, my lords, before I come to the cause, give one caution, because we shall often mention persons of eminent places, some of them great monarchs; whatever we say of them we shall but repeat what others have said of them; I mean the capital offenders in their confessions: we professing law, must speak reverently of kings and potentates. I perceive these honourable lords, and the rest of this great assembly, are come to hear what has been scattered upon the wreck of report. We carry a just mind to condemn no man but upon plain evidence. Here is mischief, mischief in *summo gradu*, exorbitant mischief. My speech shall chiefly touch these three points; imitation, supportation, and defence.

The imitation of evil ever exceeds the precedent; as, on the contrary, imitation of good ever comes short. Mischief cannot be supported but by mischief; yea, it will so multiply that it will bring all to confusion. Mischief is ever underpropped by falsehood or foul practices. And because all these things did concur in this treason, you shall understand the main, as before you did the bye.

The treason of the bye consisteth in these points: first, that the lords Grey, Brook, Markham, and the rest, intended, by force, in the night, to surprise the king's court; which was a rebellion in the heart of the realm, yea, in the heart of the heart—in the court. They intended to take him that is a sovereign, to make him subject to their power, proposing to open the doors with muskets and calievers, and to take also the prince and council. Then, under the king's authority, to carry the king to the Tower; and to make a stale of the admiral. When they had the king there, to extort three things from him: first, a pardon for all their treasons. Secondly, a toleration of the Roman superstition; which, their eyes shall sooner fall out than they shall ever see; for the king hath spoken these words in the hearing of many, "I will lose the crown and my life, before I will ever alter religion." And thirdly, to remove counsellors. In the room of the lord-chancellor, they would have placed one Watson, a priest, absurd in humanity, and ignorant in divinity. Brook, of whom I will speak nothing, lord-treasurer. The great secretary must be Markham, *oculus patriæ*. A hole must be found in my lord chief-justice's coat. Grey must be earl-marshal, and master of the horse, because he would have a table in the court; marry, he would advance the earl of Worcester to a higher place. All this cannot be done without a multitude; therefore, Watson, the priest, tells a resolute man that the king was in danger of puritans and jesuits; so to bring him in blindfold into the action, saying, that the king is no king till he be crowned; therefore every man might right his own wrongs; but he is *rex natus*, his dignity descends as well as yours, my lords. Then Watson imposed a blasphemous oath, that they should swear to defend the king's person, to keep secret what was given them in charge, and seek all ways and means to advance the catholic religion. Then they intended to send for the lord-mayor and the aldermen, in the king's name, to the Tower, lest they should make any resistance, and then to take hostages of them; and to enjoin them to provide for them victuals and munition. Grey, because the king removed before midsummer, had a further reach to get a company of swordsmen to assist in the action; therefore he would stay till he had obtained a regiment from Ostend or Austria. So, you see, these treasons were like Samson's foxes, which were joined in their tails, though their heads were severed.

Raleigh.—You, gentlemen of the jury, I pray remember, I am not charged with the bye, being the treason of the priest.

Attorney.—You are not; my lords, you shall observe three things in the treasons. First, they had a watch-word (the king's safety), their pretence was *bonum in se*, their intent was *malum in se*. Secondly, they avouched

scripture; both the priests had *scriptum est;* perverting and ignorantly mistaking the scriptures. Thirdly, they avouched the common law, to prove that he was no king till he was crowned; alleging a statute of Eliz. 13. This, by way of imitation, hath been the course of all traitors.

In the 20th of Edw. II., Isabella the queen, and lord Mortimer, gave out, that the king's person was not safe, for the good of the church and commonwealth.

The bishop of Carlisle did preach on this text, "my head is grieved," meaning, by the head, the king; that when the head began to be negligent, the people might reform what is amiss.

In the 3d Henry IV. sir Roger Claringdon, accompanied with two priests, gave out, that Richard II. was alive, when he was dead.

Edward III. caused Mortimer's head to be cut off, for giving counsel to murder the king.

The 3d Henry VII., sir William Stanly found the crown in the dust, and set it on the king's head; when Fitzwater and Garret told him that Edward V. was alive, he said, "If I be alive, I will assist him." But this cost him his head.

Edward de la Pool, duke of Suffolk, killed a man, in the reign of king Henry VII. for which the king would have him hold up his hand at the bar, and then pardoned him. Yet, he took such an offence thereat, that he sent to the noblemen, to help to reform the commonwealth; and then said, he would go to France and get power there. Sir Roger Compton knew all the treason, and discovered Windon and others, that were attainted.

He said, there was another thing would be stood upon, namely, "that they had but one witness." Then he vouched one Appleyard's case, a traitor in Norfolk, who said, a man must have two accusers. Helms was the man that accused him; but Mr. Justice Catlin said, that that statute was not in force at that day. His words were, "thrust her into the ditch."—

Then he went on speaking of accusers, and made this difference:—

An accuser is a speaker by report; when a witness is he that, upon his oath, shall speak his knowledge of any man.

A third sort of evidence there is likewise, and this is held more forcible than either of the other two; and that is, when a man, by his accusation of another, shall, by the same accusation, also condemn himself, and make himself liable to the same fault and punishment: this is more forcible than many witnesses. So then, so much by way of imitation. Then he defined treason; there is treason in the heart, in the hand, in the mouth, in consummation. Comparing that in *corde* to the root of a tree; in *ore* to the bud; in *manu* to the blossom; and that which is in *consummatione*, to the fruit.

Now I come to your charge, you of the jury. The greatness of treason is to be considered in these two things, *determinatione finis*, and *electione mediorum*. This treason excelleth in both, for that it was to destroy the king and his progeny. These treasons are said to be *crimen læsæ majestatis;* this goeth further, and may be termed *crimen extirpandæ regiæ majestatis, & totius progeniei suæ*. I shall not need, my lords, to speak any thing concerning the king, nor of the bounty and sweetness of his nature, whose thoughts are innocent, whose words are full of wisdom and learning, and whose works are full of honour; although it be a true saying, *nunquam nimis quod nunquam satis*. But to whom do you bear your malice?—to the children.

Raleigh.—To whom speak you this? You tell me news I never heard of.

Attorney.—Oh! sir, do I? I will prove you the most notorious traitor that ever came to the bar. After you have taken away the king, you would alter the religion. As you, sir Walter Raleigh, have followed them of the Bye in imitation; for I will charge you with the words.

Raleigh.—Your words cannot condemn me; my innocence is my defence; prove one of these things wherewith you have charged me, and I will confess

the whole indictment, and that I am the most horrible traitor that ever lived, and worthy to be crucified with a thousand thousand torments.

Attorney.—Nay, I will prove all; thou art a monster, thou hast an English face, but a Spanish heart. Now you must have money. Aremberg was no sooner in England, but thou incitest Cobham to go unto him, and to deal with him for money, to bestow on discontented persons, to raise rebellion in the kingdom.

Raleigh.—Let me answer for myself.

Attorney.—Thou shalt not.

Raleigh.—It concerneth my life.

Lord chief-justice Popham.—Sir Walter Raleigh, Mr. Attorney is but yet in the general; but when the king's council have given the evidence wholly, you shall answer every particular.

Attorney.—Oh! do I touch you?

Lord Cecil.—Mr. Attorney, when you have done with this general charge, do you not mean to let him answer to every particular?

Attorney.—Yes, when we deliver the proofs to be read. Raleigh procured Cobham to go to Aremberg, which he did by his instigation. Raleigh supped with Cobham before he went to Aremberg; after supper, Raleigh conducted him to Durham-house; from whence Cobham went with Lawrency, a servant of Aremberg's, unto him, and went in by a back way. Cobham could never be quiet until he had entertained this motion, for he had four letters from Raleigh. Aremberg answered, the money should be performed, but knew not to whom it should be distributed. Then Cobham and Lawrency came back to Durham-house, where they found Raleigh. Cobham and Raleigh went up, and left Lawrency below, where they had secret conference in a gallery; and after, Cobham and Lawrency departed from Raleigh. Your jargon was peace! What is that? Spanish invasion, Scottish subversion. And again, you are not a fit man to take so much money for procuring of a lawful peace, for peace procured by money is dishonourable. Then, Cobham must go to Spain, and return by Jersey, where you were captain: and then, because Cobham had not so much policy, or at least wickedness as you, he must have your advice for the distribution of the money. Would you have deposed so good a king, lineally descended of Elizabeth, eldest daughter of Edward IV.? Why then must you set up another? I think you meant to make Arabella a titular-queen, of whose title I will speak nothing, but sure you meant to make her a stale. Ah! good lady! you could mean her no good.

Raleigh.—You tell me news, Mr. Attorney.

Attorney.—Oh, sir! I am the more at large, because I know with whom I deal; for we have to deal to-day with a man of wit.

Raleigh.—Did I ever speak with this lady?

Attorney.—I will tract you out before I have done. Englishmen will not be led by persuasion of words, but they must have books to persuade.

Raleigh.—The book was written by a man of your profession, Mr. Attorney.

Attorney.—I would not have you impatient.

Raleigh.—Methinks you fall out with yourself, I say nothing.

Attorney.—By this book you would persuade men that the king is not the lawful king. Now let us consider some circumstances. My lords, you know my lord Cobham (for whom we all lament and rejoice; lament, in that his house, which hath stood so long unspotted, is now ruinated; rejoice, in that his treasons are revealed). He was neither politician nor swordsman; Raleigh was both, united in the cause with him, and, therefore, cause of his destruction. Another circumstance is the secret contriving of it. Humphrey Stafford claimed sanctuary for treason. Raleigh, in his machivilian policy, hath made a sanctuary for treason. He must talk with none but Cobham, "because," saith he, "one witness can never condemn me." For Brook said unto sir Griffith Markham, "take heed how you do make my lord Cobham acquainted; for whatsoever he knoweth, Raleigh, the witch, will get it out of him." As

soon as Raleigh was examined on one point of treason concerning my lord Cobham, he wrote to him thus: "I have been examined of you, and confessed nothing." Further, you sent to him, by your trusty Francis Kemish, that one witness could not condemn; and, therefore, bade his lordship be of good courage. Came this out of Cobham's quiver? No; but out of Raleigh's machivilian and devilish policy. Yea, but Cobham did retract it: why then did you urge it? Now, then, see the most horrible practices that ever came out of the bottomless pit of the lowest hell. After that Raleigh had intelligence that Cobham had accused him, he endeavoured to have intelligence from Cobham, which he had gotten by young sir John Payton; but, I think, it was the error of his youth.

Raleigh.—The lords told it me, or else I had not been sent to the Tower.

Attorney.—Thus Cobham, by the instigation of Raleigh, entered into these actions; so that the question will be, "whether you are not the principal traitor, and he would nevertheless have entered into it." Why did Cobham retract all that same? First, because Raleigh was so odious, he thought he should fare the worse for his sake. Secondly, he thought thus with himself, if he be free, I shall clear myself the better. After this, Cobham asked for a preacher to confer with, pretending to have Dr. Andrews; but, indeed, he meant not to have him, but Mr. Galloway, a worthy and reverend preacher, "who can do more with the king," as he said, "than any other; that he, seeing his constant denial, might inform the king thereof." Here he plays with the preacher. If Raleigh could persuade the lords that Cobham had no intent to travel, then he thought all should be well. Here is forgery. In the tower, Cobham must write to sir Thomas Vane, worthy man, that he meant not to go into Spain; which letter Raleigh had devised in Cobham's name.

Raleigh.—I will wash my hands of the indictment, and die a true man to the king.

Attorney.—You are the most absolute traitor that ever was.

Raleigh.—Your phrases will not prove it, Mr. Attorney.

Attorney.—Cobham writeth a letter to my lord Cecil, and doth command Mellis, his man, to lay it in a Spanish Bible, and to make as if he found it by chance. This was after he had intelligence with this viper that he was false.

Lord Cecil.—You mean a letter intended to me; I never had it.

Attorney.—No, my lord, you had it not. You, my masters of the jury, respect not the wickedness and hatred of the man; respect his cause. If he be guilty, I know you will have care of it, for the preservation of the king, the continuance of the gospel authorized, and the good of us all.

Raleigh.—I do not hear yet that you have spoken one word against me; here is no treason of mine done. If my lord Cobham be a traitor, what is that to me?

Attorney.—All that he did was by thy instigation, thou viper; 'twas through thee, thou traitor.

Raleigh.—It becometh not a man of quality and virtue to call me so; but I take comfort in it, it is all you can do.

Attorney.—Have I angered you?

Raleigh.—I am in no case to be angry.

Popham.—Sir Walter Raleigh, Mr. Attorney speaketh out of the zeal of his duty, for the service of the king, and you for your life; be valiant on both sides.

Then they proceeded to the reading the proofs.

The lord Cobham's examination read.

He confesseth he had a passport to go into Spain, intending to go to the archduke, to confer with him about these practices; and, because he knew the archduke had not money to pay his own army, from thence he meant to go to Spain, to deal with the king for the 600,000 crowns, and to return by Jersey; and that nothing should be done until he had spoken to sir Walter Raleigh, for distribution of the money to them that were discontented in

England. At the first beginning he breathed out oaths and exclamations against Raleigh, calling him villain and traitor; saying he had never entered into these courses but by his instigation, and that he would never let him alone.

[Here Mr. Attorney willed the clerk of the crown-office to read over these last words again, "he would never let him alone."]

Besides he spake of plots and invasions, of the particulars whereof he could give no account, though Raleigh and he had conferred of them. Further, he said, he was afraid of Raleigh, that when he should return by Jersey, that he would have him and the money to the king. Being examined concerning sir Arthur Gorge, he freed him, saying, "they never durst trust him;" but sir Arthur Savage they intended to use, because they thought him a fit man.

Raleigh.—Let me see the accusation. This is absolutely all the evidence that can be brought against me; poor shifts! You, gentlemen of the jury, I pray you understand this: this is that which must either condemn or give me life; which must free me, or send my wife and children to beg their bread about the streets. This it is that must prove me a notorious traitor, or a true subject to the king. Let me see my accusation, that I may make my answer.

Clerk of the council.—I read it, and showed you all the examinations.

Raleigh.—At my first examination at Windsor, the lords asked me, what I knew of Cobham's practice with Aremberg? I answered negatively: and, as concerning Arabella, I protest, before God, I never heard one word of it. If that be proved, let me be guilty of ten thousand treasons. It is a strange thing you will impute that to me, when I never heard so much as the name of Arabella Stewart, but only the name of Arabella.

After being examined, I told my lords, that I thought my lord Cobham had conference with Aremberg; I suspected his visiting of him: for after he departed from me at Durham-house, I saw him pass by his own stairs, and walk over to St. Mary Saviours, where I knew Lawrency, a merchant, and a follower of Aremberg, lay, and therefore likely to go unto him. My lord Cecil asked my opinion concerning Lawrency: I said, that if you do not apprehend Lawrency, it is dangerous, he will fly; if you do apprehend him, you shall give my lord Cobham notice thereof. I was asked likewise, who was the greatest man with my lord Cobham? I answered, I knew no man so great with him as young Wyatt of Kent.

As soon as Cobham saw my letter had discovered his dealings with Aremberg, in his fury he accused me; but before he came to the stair-foot he repented, and said he had done me wrong. When he came to the end of his accusation, he added, that if he had brought this money to Jersey, he feared that I would have delivered him and the money to the king. Mr. Attorney, you said, this never came out of Cobham's quiver, he is a simple man. Is he so simple? No; he hath a disposition of his own; he will not easily be guided by others; but when he has once taken head in a matter, he is not easily drawn from it; he is no babe. But it is strange for me to devise with Cobham, that he should go to Spain to persuade the king to disburse so much money, he being a man of no love in England, and I having resigned my place of chiefest command, the wardenship of the Stannaries. Is it not strange for me to make myself Robin Hood, or a Kett, or a Cade? I knowing England to be in a better estate to defend itself than ever it was. I knew Scotland united, Ireland quieted, wherein of late our forces were dispersed; Denmark assured, which before was suspected. I knew, that having a lady, whom time had surprised, we had now an active king, a lawful successor, who would himself be present in all his affairs. The state of Spain was not unknown to me. I had written a discourse, which I had intended to present unto the king, against peace with Spain. I knew the Spaniard had six repulses, three in Ireland, and three at sea, and once in 1588, at Cales, by my lord admiral; I knew he was discouraged and dishonoured. I knew the king of Spain to be the proudest prince in Christendom; but now he cometh

creeping to the king, my master, for peace. I knew whereas before he had in his port six or seven score sail of ships, he hath now but six or seven. I knew of twenty-five millions he had from his Indies, he had scarce one left. I knew him to be so poor, that the Jesuits in Spain, who were wont to have such a large allowance, were fain to beg at the church-door. Was it ever read, or heard, that any prince should disburse so much money without a sufficient pawn? I know her own subjects, the citizens of London, would not lend her majesty money without lands in mortgage. I know the queen did not lend the States money without Flushing, Brill, and other towns for a pawn. And can it be thought, that he would let Cobham have so great a sum?

I never came to the lord Cobham's but about matters of his profit; as the ordering of his house, paying of the servants' board-wages, &c. I had of his, when I was examined, £400,000 worth of jewels for a purchase; a pearl of £3000 and a ring worth £500. If he had had a fancy to run away, he would not have left so much to have purchased a lease in fee-farm. I saw him buy £300 worth of books to send to his library at Canterbury, and a cabinet or £30 to give to Mr. Attorney, for drawing the conveyances; and God in heaven knoweth, not I, whether he intended to travel or no. But for that practice with Arabella, or letters to Aremberg framed, or any discourse with him, or in what language he spake unto him; if I knew any of these things, I would absolutely confess the indictment, and acknowledge myself worthy ten thousand deaths.

Cobham's second examination read.

The lord Cobham being required to subscribe to an examination, there was showed a note under sir Walter Raleigh's hand, the which, when he had perused, he paused, and afterwards brake forth into these speeches, "Oh, villain! Oh, traitor! I will now tell you the truth:" and then said, "his purpose was to go into Flanders, and into Spain, for the obtaining the aforesaid money, and that Raleigh had appointed to meet him in Jersey, as he returned home, to be advised of him about the distribution of the money."

Popham, lord chief-justice.—When Cobham answered to the interrogatories he made scruple to subscribe, and being urged to it, he said, if he might hear me affirm that a person of his degree ought to set his hand, he would; I lying then at Richmond, for fear of the plague, was sent for, and told him he ought to subscribe; otherwise it were a contempt of a high nature: then he subscribed. The lords questioned him further, and he showed them a letter, as I thought, written to me, but, indeed, it was written to my lord Cecil: he desired to see the letter again, and then said, "Oh, wretch! Oh, traitor!" whereby I perceived you had not performed that trust he had reposed in you.

Raleigh.—He is as passionate a man as lives; for he hath not spared the best friends he hath in England in his passion. My lords, I take it, he that has been examined, has ever been asked, at the time of the examination, if it be according to his meaning, and then to subscribe. Methinks, my lords, when he accuses a man, he should give some account and reason of it; it is not sufficient to say, we talked of it. If I had been the plotter, would not I have given Cobham some arguments, whereby to persuade the King of Spain, and answer his objections. I knew Westmoreland and Bothwell, men of other understandings than Cobham, were ready to beg their bread.

Sir Thomas Fowler, one of the jury.—Did sir Walter Raleigh write a letter to my lord, before he was examined concerning him, or not?

Attorney.—Yes.

Lord Cecil.—I am in great dispute with myself to speak in the case of this gentleman: a former tenderness, between me and him, tied so firm a knot of my conceit of his virtues, now broken by a discovery of his imperfections. I protest, did I serve a king that I knew would be displeased with me for speaking, in this case I would speak, whatever came of it: but seeing he is compacted of piety and justice, and one that will not mislike of any man for speaking a truth, I will answer your question.

Sir Walter Raleigh was arrested by me at Windsor, upon the first news of Coply, that the king's person should be surprised by my lord Grey, and and Mr. George Brook; when I found Brook was in, I suspected Cobham; then I doubted Raleigh to be a partaker. I speak not this, that it should be thought I had greater judgment than the rest of my lords, in making this haste to have them examined. Raleigh following to Windsor, I met with him upon the terrace, and willed him, as from the king, to stay, saying the lords had something to say to him: then he was examined, but not concerning my lord Cobham, but of the surprising treason. My lord Grey was apprehended, and likewise Brook. By Brook we found that he had given notice to Cobham of the surprising treason, as he delivered it to us, but with as much sparingness of a brother as he might. We sent for my lord Cobham to Richmond, where he stood upon his justification, and his quality; sometimes being froward, he said, he was not bound to subscribe, wherewith we made the king acquainted. Cobham said, if my lord chief-justice would say it were a contempt, he would subscribe; whereof being resolved, we subscribed. There was a light given to Aremberg; that Lawrency was examined, but that Raleigh knew that Cobham was examined, is more than I know.

Raleigh.—If my lord Cobham had trusted me in the main, was not I as fit a man to be trusted in the bye?

Lord Cecil.—Raleigh did by his letters acquaint us that my lord Cobham had sent Lawrency to Aremberg, when he knew not he had any dealings with him.

Lord H. How.—It made for you, if Lawrency had been only acquainted with Cobham, and not with you. But you knew his whole estate, and were acquainted with Cobham's practice with Lawrency, and it was known to you before that Lawrency depended on Aremberg.

Attorney.—1st, Raleigh protested against the surprising treason. 2d, That he knew not of the matter touching Arabella. I would not charge you, sir Walter, with a matter of falsehood; you say you suspected the intelligence that Cobham had with Aremberg, by Lawrency.

Raleigh.—I thought it had been no other intelligence but such as might be warranted.

Attorney.—Then it was but lawful suspicion. But to that whereas you said that Cobham had accused you in passion, I answer three ways: 1st, I observed when Cobham said, "Let me see the letter again;" he paused; and when he did see that Count Aremberg was touched, he cried out, "Oh, traitor! Oh, villain! Now will I confess the whole truth." 2d, The accusation of a man on hearsay is nothing; would he accuse himself on passion, and ruinate his cause and posterity, out of malice to accuse you? 3d, Could this be out of passion? mark the manner of it; Cobham had told this at least two months before to his brother Brook; "you are on the bye, Raleigh and I are on the main; we mean to take away the king and his cubs;" this he delivered two months before. So mark the manner and the matter; he would not turn the weapon against his own bosom, and accuse himself to accuse you.

Raleigh.—Hath Cobham confessed that?

Lord chief-justice.—This is spoken by Mr. Attorney, to prove that Cobham's speech came not out of passion.

Raleigh.—Let it be proved that Cobham said so.

Attorney.—Cobham saith, he was a long time doubtful of Raleigh, that he would send him and the money to the king. Did Cobham fear lest you would betray him in Jersey? Then of necessity there must be trust between you. No man can betray a man but he that is trusted, in my understanding. This is the greatest argument to prove that he was acquainted with Cobham's proceedings. Raleigh has a deeper reach than to make himself, as he said, a Robin Hood, a Kett, or Cade; yet I never heard that Robin Hood was a

traitor; they say he was an outlaw. And whereas he saith that our king is not only more wealthy and potent than his predecessors, but also more politic and wise, so that he could have no hope to prevail: I answer, there is no king so potent, wise, and active, but he may be overtaken through treason. Whereas, you say Spain is so poor, discoursing so largely thereof: it had been better for you to have kept in Guiana, than to have been so well acquainted with the state of Spain. Besides, if you could have brought Spain and Scotland to have joined, you might have hoped to prevail a great deal the better. For his six overthrows, I answer, he hath the more malice, because repulses breed desire of revenge. Then you say you never talked with Cobham but about leases, and letting lands, and ordering his house; I never knew you clerk of the kitchen, &c. If you had fallen on your knees at first, and confessed the treason, it had been better for you. You say he meant to have given me a cabinet of thirty pounds; perhaps he thought, by those means, to have anticipated me therewith. I answer, all this accusation in circumstance is true: here now I might appeal to my lords, that you take hold of this, that he subscribed not to the accusation.

Lord H. How.—Cobham was not then pressed to subscribe.

Attorney.—His accusation, being testified by the lords, is of as great force as if he had subscribed. Raleigh saith again, "If the accuser be alive, he must be brought face to face to speak;" and alleges 25th Edw. III. that there must be two sufficient witnesses that must be brought face to face before the accused, and allegeth 10th and 13th Eliz.

Raleigh.—You try me by the Spanish inquisition, if you proceed only by the circumstances without two witnesses.

Attorney.—This is a treasonable speech.

Raleigh.—Evertere hominem justem in Causa sua injustum est: Good my lords, let it be proved either by the laws of the land or the laws of God, that there ought not to be two witnesses appointed; yet I will not stand to defend this point in law, if the king will have it so. It is no rare thing for a man to be falsely accused. My lords, it is not against nor contrary to law to have my accuser brought hither; I do not demand it of right, and yet I must needs tell you, that you will deal very severely with me if you condemn me, and not bring my accuser to my face. Remember the story which Fortescue relates of a certain reverend judge of this land, which condemned a woman at Salisbury for the murder of her husband, upon presumption, and the testimony, it seems, of one witness; for which she was burnt: and how that afterwards a servant of the man that was slain, being to be executed for another crime, confessed that he had murdered his master himself, and that the woman was innocent. What did the judge say to Fortescue, out of remorse of conscience? *Quod nunquam de hoc facto animam in vita sua purgaret.* He could never have peace of conscience, though he did no more than pronounce judgment upon the verdict of the jury. Why then, my lords, let my accuser be brought, and let me ask him a question, and I have done; for it may be, it will appear from his own relation, that his accusation cannot be true, or he may be discovered by examination. I must tell you, Mr. Attorney, if you condemn me upon bare inferences, and will not bring my accuser to my face, you try me by no law, but by a Spanish inquisition. If my accuser were dead, or out of the realm, it were something; but my accuser lives, as I said already, and is in the house, and yet you will not bring him to my face. It is also commanded by the Scripture, *Allocutus est Jehova Mosen, In Ore duorum aut trium Testium, &c.*

If Christ requireth it, as it appeareth, Matt. 18. if by the canon, civil law, and God's word, it be required that there must be two witnesses at the least, bear with me if I desire one.

I would not desire to live if I were privy to Cobham's proceedings. I had been a slave, a fool, if I had endeavoured to set up Arabella, and refused so gracious a lord and sovereign; but urge your proofs.

Lord chief-justice.—You have offered questions on divers statutes, all which mention two accusers in case of indictments; you have deceived yourself, for the laws of 25th Edw. III., and 5th Edw. VI. are repealed. It sufficeth now, if there be proofs made either under hand, or by testimony of witnesses, or by oaths; it needs not the subscription of the party, so there be hands of credible men to testify the examination.

Raleigh.—It may be an error in me; and if those laws be repealed, yet I hope the equity of them remains still; but if you affirm it, it must be a law to posterity. The proof of the common law is by witness and jury; let Cobham be here, let him speak it. Call my accuser before my face, and I have done.

Attorney.—*Scientia sceleris est mera ignorantia.* You have read the letter of the law, but understand it not. Here was your anchor-hold, and your rendezvous; you trust to Cobham; either Cobham must accuse you, or nobody; if he did, then it would not hurt you, because he is but one witness; if he did not, then you are safe.

Raleigh.—If ever I read word of the law or statute before I was prisoner in the Tower, God confound me.

Attorney.—Now I come to prove the circumstances of the accusation to be true. Cobham confessed he had a passport to travel, hereby intending to present overtures to the archduke, and from thence to go to Spain, and there to have conference with the king for money: you say he promised to come by Jersey, to make merry with you and your wife.

Raleigh.—I said, in his return from France, not Spain.

Attorney.—Further, in his examination he saith, nothing could be set down for the distribution of the money to the discontented, without conference with Raleigh. You said it should have been for procurement of peace, but it was for raising rebellion. Further, Cobham saith he would never have entered into these courses, but by your instigation, and that you would never let him alone. Your scholar was not apt enough to tell us all the plots; that is enough for you to do, that are his master; you intended to trust sir Arthur Savage, whom I take to be an honest and true gentleman, but not sir Arthur Gorge.

Raleigh.—All this is but one accusation of Cobham's; I hear no other thing; to which accusation he never subscribed nor avouched it; I beseech you, my lords, let Cobham be sent for, charge him on his soul, on his allegiance to the king; if he affirm it, I am guilty.

Lord Cecil.—It is the accusation of my lord Cobham, it is the evidence against you, must it not be of force without his subscription? I desire to be resolved by the judges, whether by the law it is not a forcible argument of evidence.

The judges.—My lord, it is.

Raleigh.—The king at his coronation is sworn, *In omnibus Judiciis suis, Æquitatem, non Rigorem Legis, observare:* by the rigour and cruelty of the law it may be a forcible evidence.

Lord chief-justice.—That is not the rigour of the law, but the justice of the law; else when a man hath made a plain accusation, by practice he might be brought to retract it again.

Raleigh.—Oh, my lord, you may use equity.

Lord chief-justice.—That is from the king, you are to have justice from us.

Lord Anderson.—The law is, if the matter be proved to the jury, they must find you guilty; for Cobham's accusation is not only against you, there are other things sufficient.

Lord Cecil.—Now that sir Walter Raleigh is satisfied that Cobham's subscription is not necessary, I pray you, Mr. Attorney, go on.

Raleigh.—Good Mr. Attorney, be patient, and give me leave.

Lord Cecil.—An unnecessary patience is a hindrance; let him go on with his proofs, and then repel them.

Raleigh.—I would answer particularly.

Lord Cecil.—If you would have a table, and pen and ink, you shall.

Then paper and ink were given him.

Here the clerk of the crown read the letter which the lord Cobham did write in July, which was to the effect of his former examination, further saying, "I have disclosed all; to accuse any one falsely, were to burthen my own conscience."

Attorney.—Read Copley's confession the 8th of June; he saith, he was offered 1000 crowns to be in this action.

Here Watson's additions were read.

The great mass of money from the count was impossible, saith Brook, &c.

Brook's Confession read.

There have letters passed, saith he, between Cobham and Aremberg, for a great sum of money, to assist a second action, for the surprising of his majesty.

Attorney.—It is not possible it was of passion, for it was in talk before three men being severally examined, who agreed in the sum to be bestowed on discontented persons. That Grey should have 12,000 crowns, and Raleigh should have 8000 or 10,000 crowns.

Cobham's Examination, July 18th.

If the money might be procured (saith he) then a man may give pensions. Being asked if a pension should not be given to his brother Brook, he denied it not.

Lawrency's Examination.

Within five days after Aremberg arrived, Cobham resorted unto him. That night that Cobham went to Aremberg with Lawrency, Raleigh supped with him.

Attorney.—Raleigh must have his part of the money, therefore, now he is a traitor. The crown shall never stand one year on the head of the king (my master) if a traitor may not be condemned by circumstances: for if A. tells B., and B. tells C., and C. D., &c. you shall never prove treason by two witnesses.

Raleigh's Examination was read.

He confesseth Cobham offered him 8000 crowns, which he was to have for the furtherance of the peace between England and Spain; and that he should have it within three days. To which he said, he gave this answer: When I see the money I will tell you more; for I had thought it had been one of his ordinary idle conceits, and therefore made no account thereof.

Raleigh.—The attorney hath made a long narration of Copley, and the priests, which concerns me nothing, neither know I how Cobham was altered. For he told me, if I would agree to further the peace, he would get me 8000 crowns. I asked him, who shall have the rest of the money? He said, I will offer such a nobleman (who was not named) some of the money. I said he will not be persuaded by you, and he will extremely hate you for such a motion. Let me be pinched to death with hot irons, if ever I knew there was any intention to bestow the money on discontented persons. I had made a discourse against the peace, and would have printed it. If Cobham had changed his mind; if the priests, if Brook had any such intent, what is that to me?—they must answer for it. He offered me the money before Aremberg came, that is difference of time.

Sergeant Philips.—Raleigh confesseth the matter, but avoideth it by distinguishing of time. You said it was offered you before the coming of Aremberg, which is false. For you being examined, whether you should have

such money of Cobham or not, you said yea, and that you should have it within two or three days. *Nemo moriturus presumitur mentiri.*

Lord Hen. How.—Allege me any ground or cause, wherefore you gave ear to my lord Cobham for receiving pensions, in matters you had not to deal with.

Raleigh.—Could I stop my lord Cobham's mouth?

Lord Cecil.—Sir Walter Raleigh presseth, that my lord Cobham should be brought to face him. If he asked things of favour and grace, they must come only from him that can give them. If we sit here as commissioners, how shall we be satisfied whether he ought to be brought, unless we hear the judges speak?

Lord chief-justice.—This thing cannot be granted, for then a number of treasons should flourish. The accuser may be drawn by practice, whilst he is in person.

Judge Gawdy.—The statute you speak of, concerning two witnesses in a case of treason, is found to be inconvenient; therefore, by another law, it was taken away.

Raleigh.—The common trial of England is by jury and witnesses.

Lord chief-justice.—No, by examination, if three conspire a treason, and all confess it; here is never a witness, yet they are condemned.

Judge Warburton.—I marvel, sir Walter, that you being of such experience and wit, should stand on this point; for so many horse-stealers may escape, if they may not be condemned without witnesses. If one should rush into the king's privy-chamber, whilst he is alone, and kill the king (which God forbid), and this man be met coming with his sword drawn, all bloody, shall not he be condemned to death? My lord Cobham hath, perhaps, been laboured withal; and to save you, his old friend, it may be that he will deny all that which he hath said.

Raleigh.—I know not how you conceive the law.

Lord chief-justice.—Nay, we do not conceive the law, but we know the law.

Raleigh.—The wisdom of the law of God is absolute and perfect, *hæc fac, and vives*, &c. But now the wisdom of the state, the wisdom of the law, is uncertain. Indeed, where the accuser is not to be had conveniently, I agree with you; but here my accuser may—he is alive, and in the house. Susanna had been condemned, if Daniel had not cried out, "Will you condemn an innocent Israelite, without examination or knowledge of the truth?" Remember, it is absolutely the commandment of God, "If a false witness rise up, you shall cause him to be brought before the judges; if he be found false, he shall have the punishment which the accused should have had." It is very sure for my lord to accuse me is my certain danger, and it may be a means to excuse himself.

Lord chief-justice.—There must not such a gap be opened for the destruction of the king, as would be, if we should grant this. You plead hard for yourself, but the laws plead as hard for the thing. I did never hear that course to be taken in a case of treason, as to write one to another, or speak one to another during the time of their imprisonment. There hath been intelligence between you, and what underhand practices there may be, I know not. If the circumstances agree not with the evidence, we will not condemn you.

Raleigh.—The king desires nothing but the knowledge of the truth, and would have no advantage taken by severity of the law. If ever we had a gracious king, now we have; I hope, as he is, such are his ministers. If there be but a trial of five marks at common law, a witness must be deposed. Good my lords; let my accuser come face to face, and be deposed.

Lord chief-justice.—You have no law for it: God forbid any man should accuse himself upon his oath.

Attorney.—The law presumes, a man will not accuse himself to accuse

another. You are an odious man; for Cobham thinks his cause the worse that you are in it. Now you shall hear of some stirs to be raised in Scotland.

Part of Copley's Examination.

Watson told me, that a certain person told him, that Aremberg offered to him a thousand crowns to be in that action; and that Brook said, the stirs in Scotland came out of Raleigh's head.

Raleigh.—Brook hath been taught his lesson.

Lord H. How.—This examination was taken before me; did I teach him his lesson?

Raleigh.—I protest before God, I meant it not by any privy-counsellor; but because money is scant, he will juggle on both sides.

Raleigh's Examination.

The way to invade England, was to begin with stirs in Scotland.

Raleigh.—I think so still: I have spoken it to divers of the lords of the council, by way of discourse and opinion.

Attorney.—Now let us come to those words of destroying the king and his cubs.

Raleigh.—O barbarous! if they, like unnatural villains, should use those words, shall I be charged with them? I will not hear it; I was never any plotter with them against my country; I was never false to the crown of England. I have spent £4000 of my own against the Spanish faction, for the good of my country. Do you bring the words of these hellish spiders, Clark, Watson, and others, against me?

Attorney.—Thou hast a Spanish heart, and thyself art a spider of hell; for thou confessest the king to be a most sweet and gracious prince, and yet hast conspired against him.

Watson's Examination read.

He said that George Brook told him twice, that his brother, the lord Cobham, said to him, that you are but on the bye, but Raleigh and I are on the main.

Brook's Examination read.

Being asked what was meant by this jargon, the bye and the main; he said, that the lord Cobham told him, that Grey and others were in the bye, he and Raleigh were on the main. Being asked what exposition his brother made of these words; he said, he is loth to repeat it. And after saith, by the main was meant the taking away of the king and his issue; and thinks, on his conscience, it was infused into his brother's head by Raleigh.

Cobham's Examination read.

Being asked, if ever he had said, It will never be well in England, till the king and his cubs are taken away. He said, he had answered before, and that he would answer no more to that point.

Raleigh.—I am not named in all this: there is a law of two sorts of accusers, one of his own knowledge, another by hearsay.

E. Suff.—See the case of Arnold.

Lord chief-justice.—It is the case of sir William Thomas, and sir Nicholas Arnold.

Raleigh.—If this may be, you will have any man's life in a week.

Attorney.—Raleigh saith, that Cobham was in a passion when he said so. Would he tell his brother any thing of malice against Raleigh, whom he loved as his life?

Raleigh.—Brook never loved me; until his brother had accused me, he said nothing.

Lord Cecil.—We have heard nothing that might lead us to think that Brook

accused you, he was only in the surprising treason; for by accusing you, he should accuse his brother.

Raleigh.—He doth not care much for that.

Lord Cecil.—I must judge the best. The accusation of his brother was not voluntary; he pared every thing as much as he could to save his brother.

Cobham's Examination read.

He said he hath a book written against the title of the king, which he had of Raleigh, and that he gave it to his brother Brook; and Raleigh said it was foolishly written.

Attorney.—After the king came within twelve miles of London, Cobham never came to see him; and intended to travel without seeing the queen and the prince. Now, in this discontentment, you gave him the book, and he gave it to his brother.

Raleigh.—I never gave it to him; he took it off my table. I well remember, a little before that I received a challenge from sir Amias Preston, and it was my intention to answer it. I resolved to leave my estate settled; I therefore laid out all my loose papers, amongst which was this book.

Lord Howard.—Where had you this book?

Raleigh.—In the old treasurer's study, after his death.

Lord Cecil.—Did you ever show or make known the book to me?

Raleigh.—No, my lord.

Lord Cecil.—Was it one of the books which was left to me or my brother?

Raleigh.—I took it out of the study in my lord-treasurer's house in the Strand.

Lord Cecil.—After my father's decease, sir Walter Raleigh desired to search for some cosmographical descriptions of the Indies, which he thought were in his study, and were not to be had in print, which I granted, and would have trusted sir Walter Raleigh as soon as any man; though since for some infirmities, the bands of my affection to him have been broken; and yet reserving my duty to the king my master, which I can by no means dispense with, by God I love him, and have a great conflict within myself: but I must needs say, sir Walter used me a little unkindly, to take the book away without my knowledge; nevertheless, I need make no apology in behalf of my father, considering how useful and necessary it is for privy-counsellors, and those in his place, to intercept and keep such kind of writings: for whosoever should then search his study, may in all likelihood find all the notorious libels that were written against the late queen; and whosoever should rummage my study, at least my cabinet, may find several against the king, our sovereign lord, since his accession to the throne.

Raleigh.—The book was in manuscript, and the late lord-treasurer had wrote in the beginning of it, with his own hand, these words, 'This is the book of Robert Snagg.' And I do own, as my lord Cecil has said, that I believe they may also find in my house almost all the libels that have been written against the late queen.

Attorney.—You were no privy-counseller, and I hope never will be.

Lord Cecil.—He was not a sworn counsellor of state, but he has been called to consultations.

Raleigh.—I think it a very severe interpretation of the law, to bring me within compass of treason for this book, written so long ago, of which nobody had read any more than the heads of the chapters, and which was burnt by G. Brook without my privity: admitting I had delivered the same to the lord Cobham, without allowing or approving, but discommending it, according to Cobham's first accusation, and put the case, I should come to my lord Cecil, as I have often done, and find a stronger with him, with a packet of libels, and my lord should let me have one or two of them to peruse: this I hope is no treason.

Attorney.—I observe there was intelligence between you and Cobham in

the Tower; for after he said, it was against the king's title, he denied it again.

Sir William Wade.—First my lord Cobham confessed it, and after he had subscribed it, he revoked it again: to me he always said, that the drift of it was against the king's title.

Raleigh.—I protest before God, and all his works, I did not give him the book.

Sir Robert Wroth now spoke, or whispered something secretly.

Attorney.—My lords, I must complain of sir Robert Wroth; he says this evidence is not material.

Sir Robert Wroth.—I never spake the words.

Attorney.—Let Mr. Sergeant Philips testify, whether he heard him say the words or no.

Lord Cecil.—I will give my word for sir Robert Wroth.

Sir Robert Wroth.—I will speak as truly as you, Mr. Attorney; for by God, I never spoke it.

Lord chief-justice.—Wherefore should this book be burnt?

Raleigh.—I burned it not.

Sergeant Philips.—You presented your friend with it, when he was discontented. If it had been before the queen's death, it had been a less matter; but you gave it him presently when he came from the king, which was the time of his discontentment.

Raleigh.—Here is a book supposed to be treasonable; I never read it, commended it, or delivered, or urged it.

Attorney.—Why this is cunning.

Raleigh.—Every thing that doth make for me is cunning, and every thing that maketh against me is probable.

Attorney.—Lord Cobham saith, that Kemish came to him with a letter torn, and wished him not to be dismayed, for one witness could not hurt him.

Raleigh.—This poor man has been a close prisoner these eighteen weeks; he was offered the rack to make him confess. I never sent any such message by him; I only writ to him, to tell him what I had done with Mr. Attorney; having of his, at that time, a great pearl and a diamond.

Lord H. Howard.—No circumstance moveth me more than this. Kemish was never on the rack; the king gave charge that no rigour should be used.

Commissioners.—We protest before God, there was no such matter intended to our knowledge.

Raleigh.—Was not the keeper of the rack sent for, and he threatened with it?

Sir William Wade.—When Mr. Solicitor and myself examined Kemish, we told him he deserved the rack, but did not threaten him with it.

Commissioners.—It was more than we knew.

Cobham's Examination read.

He saith, Kemish brought him a letter from Raleigh, and that part which was concerning the lords of the council, was torn out; the letter stated, that he was examined and had cleared himself of all; and that the lord H. Howard said, because he was discontent, he was fit to be in the action. And further that Kemish said to him from Raleigh, that he should be of good comfort, for one witness could not condemn a man for treason.

Lord Cecil.—Cobham was asked, whether, and when he heard from you? he said, every day.

Raleigh.—Kemish added more; I never bade him speak those words.

Mr. Attorney here offered to interrupt him.

Lord Cecil.—It is his last discourse. Give him leave, Mr. Attorney.

Raleigh.—I am accused concerning Arabella, concerning money out of Spain. My lord chief-justice saith, a man may be condemned with one witness; nay, without any witness. Cobham is guilty of many things, *Conscientia mille Testes;* he hath accused himself, what can he hope for but

mercy? My lords, vouchsafe me this grace. Let him be brought, being alive and in the house; let him avouch any of these things, I will confess the whole indictment, and renounce the king's mercy.

Lord Cecil.—Here hath been a scandal against the lady Arabella Stewart, a near kinswoman of the king's. Let us not scandal the innocent by confusion of speech: she is as innocent of all these things as I, or any man here; only she received a letter from my lord Cobham to prepare her; which she laughed at, and immediately sent it to the king. So far was she from discontentment, that she laughed him to scorn. But you see how far the count of Aremberg did consent.

The lord admiral (Nottingham) who was standing by with the lady Arabella, spoke to the court.

"The lady doth here protest, upon her salvation, that she never dealt in any of these things; and so she willed me to tell the court."

Lord Cecil.—The lord Cobham wrote to my lady Arabella, to know if he might come to speak with her, and gave her to understand that there were some about the king that laboured to disgrace her; she doubted it was but a trick. But Brook saith, his brother moved him to procure Arabella to write letters to the king of Spain; but he saith he never did it.

Raleigh.—The lord Cobham hath accused me, you see in what manner he hath foresworn it. Were it not for his accusation, all this were nothing; let him be asked, if I knew of the letter which Lawrency brought to him from Aremberg. Ler me speak for my life, it can be no hurt for him to be brought; he dares not accuse me. If you grant me not this favour, I am strangely used. Campion was not denied to have his accusers face to face.

Lord chief-justice.—Since he must needs have justice, the acquitting of his old friend may move him to speak otherwise than the truth.

Raleigh.—If I had been the infuser of all these treasons into him. You, gentlemen of the jury, mark this; he said I have been the cause of all his miseries, and the destruction of his house, and that all evils have happened unto him by my wicked counsel. If this be true, whom hath he cause to accuse, and be revenged on, but on me? And I know him to be as revengeful as any man on earth.

Attorney.—He is a party, and may not come; the law is against it.

Raleigh.—It is a toy to tell me of law. I defy such law; I stand on the fact.

Lord Cecil.—I am afraid my often speaking (who am inferior to my lords here present) will make the world think I delight to hear myself talk. My affection to you, sir Walter Raleigh, was not extinguished, but slacked, in regard of your deserts. You know the law of the realm (to which your mind doth not contest) that my lord Cobham cannot be brought.

Raleigh.—He may be, my lord.

Lord Cecil.—But dare you challenge it?

Raleigh.—No.

Lord Cecil.—You say that my lord Cobham, your main accuser, must come to accuse you. You say he hath retracted: I say, many particulars are not retracted. What the validity of all this is, is merely left to the jury. Let me ask you this, if my lord Cobham will say you were the only instigator of him to proceed in the treasons, dare you put yourself on this?

Raleigh.—If he will speak it before God and the king, that ever I knew of Arabella's matter, or the money out of Spain, or the surprising treason, I put myself on it, God's will and the king's be done with me.

Lord H. Howard.—How if he speak things equivalent to that you have said?

Raleigh.—Yes, in a main point.

Lord Cecil.—If he say you have often instigated him to deal with the Spanish king, have not the council cause to draw you hither?

Raleigh.—I put myself on it.

Lord Cecil.—Then, sir Walter Raleigh, call upon God and prepare your

self; for I do verily believe my lords will prove this. Excepting your faults (I call them no worse), by God, I am your friend. The heat and passion in you, and the attorney's zeal in the king's service, make me speak this.

Raleigh.—Whosoever is the workman, it is reason he should give account of his work to the work-master. But let it be proved that he acquainted me with any of his conferences with Aremberg: he would surely have given me some account.

Lord Cecil.—That follows not. If I set you on work and you give me no account, am I therefore innocent?

Attorney.—For the lady Arabella, I say she was never acquainted with the matter. Now that Raleigh had conference in all these treasons, it is manifest; the jury hath heard the matter. There is one Dyer, a pilot, that being in Lisbon, met with a Portuguese gentleman who asked him if the king of England was crowned yet? to whom he answered I think not yet, but he shall be shortly. Nay, saith the Portuguese, that shall never be, for his throat will be cut by Don Raleigh and Don Cobham before he be crowned.

Dyer was called and sworn, and delivered this evidence:

Dyer.—I came to a merchant's house in Lisbon, to see a boy that I had there; there came a gentleman into the house, and inquiring what countryman I was? I said, an Englishman. Whereupon he asked me, if the king was crowned? and I answered, no, but that I hoped he should be so shortly. Nay, saith he, he shall never be crowned; for Don Raleigh and Don Cobham will cut his throat e'er that day come.

Raleigh.—What infer you upon this?

Attorney.—That your treason hath wings.

Raleigh.—If Cobham did practice with Aremberg, how could it not but be known in Spain? Why did they name the Duke of Buckingham with Jack Straw's treason, and the Duke of York with Jack Cade, but that it was to countenance his treason.

Consider, you gentlemen of the jury, there is no cause so doubtful, which the king's counsel cannot make good against the law. Consider my disability and their ability: they prove nothing against me, only they bring the accusation of my lord Cobham, which he hath lamented and repented as heartily as if it had been for an horrible murder: for he knew that all this sorrow, which should come to me, is by his means. Presumptions must proceed from precedent or subsequent facts. I have spent 40,000 crowns against the Spaniard. I had not purchased £40 a-year. If I had died in Guiana, I had not left 300 marks a year to my wife and son. I have always condemned the Spanish faction, methinks it is a strange thing that now I should assist it! Remember what St. Austin says, "*Sic judicate tanquam ab alio mox judicandi; unus judex, unum tribunal.*" If you would be contented on presumptions to be delivered up to be slaughtered, to have your wives and children turned into the streets to beg their bread: if you would be contented to be so judged, judge so of me.

Sergeant Philips.—I hope to make this so clear, as that the wit of man shall have no colour to answer it. The matter is treason in the highest degree, the end to deprive the king of his crown. The particular treasons are these: First, to raise up rebellion, and to effect that, to procure money; to raise up tumults in Scotland, by divulging a treasonable book against the king's right to the crown; the purpose, to take away the life of his majesty and his issue. My lord Cobham confesseth sir Walter Raleigh to be guilty of all these treasons. The question is, whether he be guilty as joining with him, or instigating of him? The course to prove this was by my lord Cobham's accusation. If that be true, he is guilty; if not, he is clear. So whether Cobham say true, or Raleigh, that is the question. Raleigh hath no answer, but the shadow of as much wit as the wit of man can devise. He useth his bare denial; the denial of a defendant must not move the jury. In the Star-chamber, or in the Chancery, for matter of title, if the defendant be

called in question, his denial on his oath is no evidence to the court to clear him, he doth it in *propria causa;* therefore much less in matters of treason. Cobham's testification against him before then, and since, hath been largely discoursed.

Raleigh.—If truth be constant, and constancy be in truth, why hath he foresworn that that he hath said? You have not proved any one thing against me by direct proofs, but all by circumstances.

Attorney.—Have you done? The king must have the last.

Raleigh.—Nay, Mr. Attorney, he which speaketh for his life, must speak last. False repetitions and mistakings must not mar my cause. You should speak *secundum allega et probata.* I appeal to God and the king in this point, whether Cobham's accusation be sufficient to condemn me?

Attorney.—The king's safety and your clearing cannot agree. I protest, before God I never knew a clearer treason.

Raleigh.—I never had intelligence with Cobham since I came to the Tower.

Attorney.—Go too, I will lay thee upon thy back, for the most confident traitor that ever came to a bar. Why should you take 8000 crowns for a peace?

Lord Cecil.—Be not so impatient, good Mr. Attorney, give him leave to speak.

Attorney.—If I may not be patiently heard, you will encourage traitors, and discourage us. I am the king's sworn servant, and must speak: If he be guilty, he is a traitor; if not, deliver him.

Here the attorney sat down in a passion and would speak no more, until the commissioners urged and entreated him. After much ado he went on, and made a long repetition of all the evidence, for the direction of the jury; and, at the repeating some things, sir Walter Raleigh interrupted him, and said, "He did him wrong."

Attorney.—Thou art the most vile and execrable traitor that ever lived.

Raleigh.—You speak indiscreetly, barbarously, and uncivilly.

Attorney.—I want words sufficient to express thy viperous treasons.

Raleigh.—I think you want words indeed, for you have spoken one thing half a dozen times.

Attorney.—Thou art an odious fellow, thy name is hateful to all the realm of England for thy pride.

Raleigh.—It will go near to prove a measuring cast between you and me, Mr. Attorney.

Attorney.—Well I will now make it appear to the world, that there never lived a viler viper upon the face of the earth than thou; and therewithal he drew a letter out of his pocket, saying further, My lords, you shall see, this is an agent that hath written a treatise against the Spaniard, and hath ever so detested him; this is he that hath spent so much money against him in service; and yet you shall all see whether his heart be not wholly Spanish. The lord Cobham, who of his own nature was a good and honourable gentleman till overtaken by this wretch; now, finding his conscience heavily burthened with some courses which the subtilty of this traitor had drawn him into, my lords, he could be at no rest with himself, nor quiet in his thoughts, until he was eased of that heavy weight; out of which passion of his mind, and discharge of his duty to his prince, and his conscience to God, taking it upon his salvation that he wrote nothing but the truth, with his own hands he wrote this letter. Now, sir, you shall see whether you had intelligence with Cobham, within four days before he came to the Tower. If he be wholly Spanish, that desired a pension of £1500 a year from Spain, that Spain, by him, might have intelligence, then Raleigh is a traitor. He hath taken an apple, and pinned a letter into it, and thrown it into my lord Cobham's window; the contents whereof were this, "It is doubtful whether we shall be proceeded with or no, perhaps you will not be tried." This was to get a retraction. Oh! it

was Adam's apple whereby the devil did deceive him. Further, he wrote thus, "Do not as my lord of Essex did; take heed of a preacher; for by his persuasion he confessed, and made himself guilty." I doubt not but this day God shall have as great a conquest by this traitor, and the Son of God shall be as much glorified, as when it was said, *Vicisti Galilæe;* you know my meaning. What though Cobham retracted, yet he could not rest nor sleep till he confirmed it again. If this be not enough to prove him a traitor, the king, my master, shall not live three years to an end.—

Here the attorney produced the lord Cobham's letter, and, as he read it, inserted some speeches :—

"I have thought fit to set down this to my lords, wherein I protest, on my soul, to write nothing but the truth. I am now come near the period of my time; therefore, I confess the whole truth before God and his angels. Raleigh, four days before I came from the Tower, caused an apple (*Eve's apple*) to be thrown in at my chamber-window; the effect of it was to entreat me to right the wrong that I had done him, in saying, that I should have come home by Jersey; which, under my hand to him, I have retracted. His first letter I answered not, which was thrown in the same manner, wherein he prayed me to write him a letter, which I did. He sent me word that the judges met at Mr. Attorney's house, and that there was good hope the proceedings against us should be stayed; he sent me, another time, a little tobacco. At Aremberg's coming, Raleigh was to have procured a pension of fifteen hundred pounds a year; for which he promised that no action should be against Spain, the Low Countries, or the Indies, but he would give information before hand. He told me the states had audience with the king. (*Attorney.*—'Ah is not this a Spanish heart in an English body?') He hath been the original cause of my ruin; for I had no dealing with Aremberg, but by his instigation. He hath also been the cause of my discontentment; he advised me not to be overtaken with preachers, as Essex was; and that the king would better allow of a constant denial, than to accuse any."

Attorney.—Oh! damnable Atheist! he hath learned some text of Scripture to serve his own purpose, but falsely alleged. He counsels him not to be counselled by preachers, as Essex was: He died the child of God, God honoured him at his death; thou wast by when he died. *Et Lupus et Turpes instant morientibus ursæ.* He died indeed for his offence. The king himself spake these words; He that shall say Essex died not for treason is punishable.

Raleigh.—You have heard a strange tale of a strange man. Now, he thinks, he hath matter enough to destroy me; but the king, and all of you, shall witness by our deaths, which of us was the ruin of the other. I bade a poor fellow throw in the letter at the window, written to this purpose, "You know you have undone me, now write three lines to justify me." In this I will die, that he hath done me wrong: Why did not he acquaint me with his treasons, if I acquainted him with my dispositions?

Lord chief-justice.—But what say you now to the rest of the letter, and the pension of £1500 per annum?

Raleigh.—I say that Cobham is a base, dishonourable poor soul.

Attorney.—Is he base? I return it into thy throat, on his behalf: but for thee, he had been a good subject.

Lord chief-justice.—I perceive you are not so clear a man as you have protested all this while; for you should have discovered these matters to the king.

Here Raleigh pulled a letter out of his pocket, which the lord Cobham had written to him, and desired lord Cecil to read it, because he only knew his hand; the effect of it was as followeth :—

Cobham's letter of justification to Raleigh.

Seeing myself so near my end, for the discharge of my own conscience, and freeing myself from your blood, which else will cry vengeance against

me; I protest, upon my salvation, I never practised with Spain by your procurement: God so comfort me in this my affliction, as you are a true subject, for any thing that I know. I will say as Daniel, "*Purus sum a sanguine nujus.*" So God have mercy on my soul, as I know no treason by you.

Raleigh.—Now I wonder how many souls this man hath! he damns one in this letter, and another in that.

Here much tumult ensued. Mr. Attorney alleged that his last letter was politically and cunningly urged from the lord Cobham, and that the first was simply the truth; and that lest it should seem doubtful that the first letter was drawn from lord Cobham by promise of mercy, or hope of favour, the lord chief-justice wished that the jury might herein be satisfied.

Whereupon the earl of Devonshire declared that the same was merely voluntary, and not extracted from the lord Cobham upon any hopes or promises of pardon.

This was the last evidence: whereupon the marshal was sworn to keep the jury private. The jury departed, and stayed not a quarter of an hour, but returned, and gave their verdict, *Guilty.*

Serjeant Heale demanded judgment against the prisoner.

Clerk of the Crown.—Sir Walter Raleigh, thou hast been indicted, arraigned, and hast pleaded not guilty, for all these several treasons, and for trial thereof hast put thyself upon thy country; which country are these who have found thee guilty. What canst thou say for thyself, why judgment, and execution of death, should not pass against thee?

Raleigh.—My lords, the jury have found me guilty. They must do as they are directed. I can say nothing why judgment should not proceed. You see whereof Cobham hath accused me. You remember his protestations that I was never guilty. I desire the king should know of the wrongs done unto me since I came hither.

Lord chief-justice.—You have had no wrong, sir Walter.

Raleigh.—Yes, of Mr. Attorney. I desire my lords to remember three things to the king. 1st. I was accused of being a practiser with Spain. I never knew that my lord Cobham meant to go thither; I will ask no mercy at the king's hands, if he will affirm it. 2d. I never knew of the practice with Arabella. 3d. I never knew of my lord Cobham's practice with Aremberg, nor of the surprising treason.

Lord chief-justice.—In my conscience I am persuaded that Cobham hath accused you truly. You cannot deny but that you were dealt with to have a pension to be a spy for Spain; therefore you are not so true to the king as you have protested yourself to be.

Raleigh.—I submit myself to the king's mercy; I know his mercy is greater than my offence. I recommend my wife, and son of tender years, unbrought up, to his compassion.

Lord chief-justice.—I thought I should never have seen this day, to have stood in this place to give sentence of death against you; because I thought it impossible, that one of so great parts should have fallen so grievously. God hath bestowed on you many benefits. You had been a man fit and able to have served the king in a good place. You had brought yourself into a good state of living, if you had entered into a good consideration of your estate, and not suffered your own wit to have entrapped yourself, you might have lived in good comfort. It is best for man not to seek to climb too high, lest he fall; nor yet to creep too low, lest he be trodden on. It was the maxim of the wisest and greatest counsellor of our time in England, *In medio spatio mediocria firma locantur.* You might have lived well with £3000 a year, for so I have heard your revenues to be. I know of nothing that could move you to be discontented; but if you had been down, you know fortune's wheel, when it is turned about, riseth again. I never heard that the king took away any thing from you, but the captainship of the guard, which he did with very good reason, to have one of his own knowledge, whom he might

trust, in that place. You have been taken for a wise man, and have showed wit enough this day. Again, for monopolies for wine, &c. If the king had said, it is a matter that offends my people, should I burthen them for your private good? I think you could not well take it hardly, that his subjects were eased, though by your private hindrance. Two vices have lodged chiefly in you; one is an eager ambition, the other corrupt covetousness. Ambition, in desiring to be advanced to equal grace and favour, as you have been beforetime; that grace you had then, you got not in a day or a year. For your covetousness, I am sorry to hear that a gentleman of your wealth should become a base spy for the enemy, which is the vilest of all other; wherein, on my conscience, Cobham hath said true: by it you would have increased your living £1500 a year. This covetousness is like a canker, that eats the iron place where it lives. Your case being thus, let it not grieve you, if I speak a little out of zeal and love to your good. You have been taxed by the world with the defence of the most heathenish and blasphemous opinions, which I list not to repeat, because Christian ears cannot endure to hear them, nor the authors and maintainers of them be suffered to live in any Christian commonwealth. You know what men said of Harpool. You will do well, before you go out of the world, to give satisfaction therein, and not to die with these imputations on you. Let not any devil persuade you to think there is no eternity in Heaven: for if you think thus, you shall find eternity in hell-fire. In the first accusation of my lord Cobham, I observed his manner of speaking; I protest before the living God, I am persuaded he spoke nothing but the truth. You wrote, that he should not, in any case, confess any thing to a preacher, telling him an example of my lord of Essex, that noble earl that is gone; who, if he had not been carried away with others, had lived in honour to this day among us. He confessed his offences, and obtained mercy of the Lord, for I am verily persuaded in my heart, he died a worthy servant of God. Your conceit of not confessing any thing is very inhuman and wicked. In this world is the time of confessing, that we may be absolved at the day of judgment. You have shown a fearful sign of denying God, in advising a man not to confess the truth. It now comes in my mind, why you may not have your accuser come face to face; for such an one is easily brought to retract, when he seeth there is no hope of his own life. It is dangerous that any traitors should have any access to, or conference with one another; when they see themselves must die, they will think it best to have their fellow live, that he may commit the like treason again, and so in some sort seek revenge.

Now it resteth to pronounce the judgment, which I wish you had not been this day to have received of me: for if the fear of God in you had been answerable to your other great parts, you might have lived to have been a singular good subject. I never saw the like trial, and I hope I shall never see the like again.

THE JUDGMENT.

But, since you have been found guilty of these horrible treasons, the judgment of this court is, that you shall be had from hence to the place whence you came, there to remain until the day of execution; and from thence you shall be drawn, upon a hurdle, through the open streets to the place of execution, there shall be hanged and cut down alive, and your body shall be opened, your heart and bowels plucked out, and your privy members cut off, and thrown into the fire before your eyes; then your head shall be struck off from your body, and your body shall be divided into four quarters, to be disposed of at the king's pleasure. And God have mercy upon your soul.

Sir Walter Raleigh besought the earl of Devonshire, and the lords, to be suitors in his behalf to the king; that in regard to places of estimation he did bear in his majesty's time, the rigour of his judgment might be qualified, and his death honourable and not ignominious.

Wherein, after they had promised him to do their utmost endeavours, the court rose, and the prisoner was carried up again to the castle.

It was observed, that before the lords (principally to lord Cecil) at Winchester (for there he was tried, the sickness then reigning in London), he was humble, but not abject; dutiful, but not dejected; for, in some cases, he would humbly thank them for gracious speeches; in others acknowledge that their worships said true, as relating to some circumstances. And in such points wherein he would not yield unto them, he would crave pardon, and with reverence urge them, and answer them as in points of law, or essential matters of fact. To the jury, he was affable, but not fawning; hoping, but not trusting in them; carefully persuading them with reason, not intemperately importuning them; and upon the whole rather showing love of life, than fear of death. What bore hard against sir Walter, was his discovery of Lawrency and Cobham's frequent conferences; which so incensed Cobham, that he positively accused him; though the single evidence of one already convicted of what sir Walter was but impeached, could only make a circumstance, and not convict him. The judges and the king's counsel did what they could to clamour him out of his life; and, since they wanted proof, they endeavoured to tire him out. If we may believe Osborn, several of the jurymen, after he was cast, were so far touched in conscience as to ask of him pardon on their knees.

A further confirmation of his innocence may be a passage of his own, in a letter to secretary Winwood, wherein he tells him, "That the worthy prince of Wales was extremely curious in searching out the nature of his offences. The queen's majesty had informed herself from the beginning. The king of Denmark, at both times of his being here, was thoroughly satisfied of his innocence; they would otherwise never have moved his majesty on his behalf. The wife, the brother, and the son of a king do not use to sue for suspected men." Nay, further yet, the Scots themselves declared in favour of him, if we may believe him in another letter of his to sir Robert Car, afterwards earl of Somerset, wherein are these words: "I have ever been bound to your nation, as well for many other graces, as for the true report of my trial to the king's majesty, against whom, had I been malignant, the hearing of my cause could not have changed enemies into friends, malice into compassion, and the minds of the greatest number, then present, into commiseration of mine estate. It is not the nature of foul treason to beget such fair passions; neither could it agree with the duty and love of faithful subjects (especially of your nation), to bewail his overthrow that had conspired against their most natural and liberal lord."

Two days after Raleigh's trial, were sentenced Brook, who pretended his intention was only to try faithful subjects, and said he had a commission for so doing, but produced it not; Markham, who confessed the indictment, pleaded discontent, and desired mercy; Watson, who confessed that he drew them all in, holding the king to be no sovereign till he was crowned, instancing in Saul and Jeroboam; and Clark, who said the like. Parham and Brooksby were acquitted by the jury. Watson, Clark, and Brook were executed; Markham, Cobham, and Grey, brought severally on the scaffold to die, and at the instant they were on the block, had their particular executions remitted, by a letter to the sheriff, under the king's own hand, without the knowledge of any, save Mr. Gibbs, gentleman of the bedchamber, who brought it. However, an evil fate attended these men; Grey died in the Tower, the last of his line; the rest were discharged, but died miserably poor: Markham and some others abroad; but Cobham (as Osborn tells us) in a room, ascended by a ladder, at a poor woman's house in the Minories (formerly his laundress), died rather of hunger.

Sir Walter was left to his majesty's mercy, who thought him too great a malcontent to have his freedom, and probably too innocent to lose his life. He was therefore confined in the Tower, but permitted to enjoy *libera cus*

todia; where he employed his imprisonment in obtaining learning and science of various kinds. Since his majesty had buried him, and, as it were, banished him from this world, he thought it no treason to disturb the ashes of former times, and bring to view the actions of deceased heroes. And, certainly, none was so fit to comment on their achievements, and so able to raise excellent maxims from them, as he who had been brought up in so wise a court as that of queen Elizabeth, and read so many wise men. After some time passed there, he completed the History of the World; a book which, for the exactness of its chronology, singularity of its contexture, and learning of all sorts, seems to be the work of an age. That a man who had been the greatest part of his life taken up in action, should write so judiciously, so critically of times and actions, is as great a wonder as the book itself. It still remains a dispute, whether the age he lived in was more obliged to his pen or his sword, the one being busy in conquering the new, the other in so eloquently describing the old world. An history wherein the only fault, or defect rather, is, that it wanted the one-half; which was occasioned, as our story tells us, thus; some few days before he suffered, he sent for Mr. Walter Burr, who formerly printed his first volume of the History of the World, whom taking by the hand, after some other discourse, he asked how it had sold? Mr. Burr returned this answer, "It sold so slowly that it had undone him." At these words sir Walter, stepping to his desk, took the other unprinted part of his history, which he had brought down to the times he lived in, and clapping his hand upon his breast, said, with a sigh, "Ah! my friend, hath the first part undone thee? the second part shall undo no more; this ungrateful world is unworthy of it!" and immediately going to the fire-side, threw it in, and set his foot upon it till it was consumed. As great a loss to learning as Christendom could have sustained; the greater, because it could be repaired by no hand but his.

Fourteen years sir Walter spent in the Tower, and being weary of a state wherein he could be only serviceable by his pen, but not in a capacity of serving and enriching his country any other way (of whom prince Henry would say, that no king but his father would keep such a bird in a cage), at length commenced an enterprise of a gold mine in Guiana, in the southern parts of America. The proposition of this was presented and recommended to his majesty by sir Ralph Winwood, then secretary of state, as a matter not in the air, and speculative; but real, and of certainty: for that sir Walter had seen some ore of the mine, and tried the richness of it, having gotten a pound from thence by the hands of captain Kemish, his ancient servant.

Sir Ralph Winwood's recommendation of the design, and the earnest solicitations of the queen, the prince, and the French lieger for his enlargement, together with the asseverations of sir Walter of the truth of the mine, worked upon his majesty, who thought himself in honour obliged, nay, in a manner engaged (as the declaration which he published after the death of sir Walter tells us), not to deny unto his people the adventure and hope of such great riches to be sought and achieved at the charge of volunteers; especially since it stood so well with his majesty's politic courses in those times of peace, to nourish and encourage noble and generous enterprises for plantations, discoveries, and opening a new trade.

Count Gondamor (an active and subtile instrument to serve his master's ends) took alarm at this, and represented to his majesty the enterprise of sir Walter to be hostile and predatory, intending a breach of the peace between the two crowns. But notwithstanding, the power at last was granted to sir Walter to procure ships and men for that service. However, the king commanded him upon pain of his allegiance, to give him, under his hand (promising on the word of a king to keep it a secret), the number of his men, the burthen and strength of his ships, together with the country and river he was to enter; which, being done accordingly by sir Walter, that very original paper was found in the Spanish governor's closet, at St. Thomas! so active

were the Spanish ministers, that intelligence was sent to Spain, and thence to the Indies, before the English fleet got out of the Thames.

But, as we have just cause to admire the more than usual activity of the Spanish agents, so may we wonder no less at the baseness of his majesty's ministers; who notwithstanding he had passed his royal word to the contrary, yet did they help count Gondamor to that very paper; so much both the king and court were at Gondamor's service.

His commission for this Guiana expedition we shall pass over; with it and the company of several brave captains, and other knights and gentlemen of great blood and worth, he set out in quest of the mine, with a complete fleet of twelve sail.

On the 17th of November he arrived at Guiana, having been much retarded by contrary winds, and having lost several of his volunteers in the voyage, by a violent calenture. What he did there, and at St. Thomas, is too long to rehearse. In his apology, he says, the Spaniards began the hostilities, which occasioned his falling upon the place. While that action was performing sir Walter staid at Point de Gallo during nine weeks, where the unwelcome news was brought him of the loss of his son, and the defeat they met with in their design upon the mine. However, this ill news could not alter the resolution of sir Walter, of returning to England, though he knew he should meet with several enemies there, who had, by their calumnies, rendered the voyage nothing but a design; and, though several of his men were for landing at Newfoundland; for if we may believe himself, at the hour of his death, the two noble earls, Thomas of Arundel, and William of Pembroke, engaged him to return; and sir Walter was resolved, though inevitable danger threatened him, to keep his promise.

No sooner had they arrived upon the coasts of Ireland, but the taking and sacking of St. Thomas, firing of the town, and putting the Spaniards there to the sword (though in their own defence), was noised abroad in all parts, and was, by special intelligence, communicated to count de Gondamor; who thereupon, desiring audience of his majesty, said he had but one word to say; his majesty, much wondering what might be delivered in one word, when he came before him he bawled only out, "pirates! pirates! pirates!"—a very curious speech for an ambassador. Whereupon his majesty published his royal proclamation, for the discovery of the truth of sir Walter Raleigh's proceeding, and the advancement of justice. But, after all this noise, sir Walter was not questioned for his Guiana action; for it is believed, not without very good ground, that neither the transgression of his commission, nor any thing acted beyond the line, where the articles of peace between the two courts did not extend, could have, in a legal course of trial, shortened his days.

When sir Walter Raleigh was arrived at Plymouth, sir Lewis Stukely, vice-admiral of the county of Devon, seized him, being commissioned by his majesty to bring him to London; which gave little terror to a person who could expect nothing less; and he was now forced to make use of all the arts imaginable to appease his majesty and avert his anger. To this intent, Manowry, a French quack at Salisbury, gave him several vomits, and an artificial composition, which made him look ghastly and dreadful, full of pimples and blisters, so as to deceive the physicians themselves, who could not tell what to make of his urine (though often inspected), being adulterated with a drug in the glass, that turned it, even in their hands, to an earthy humour of a blackish colour, and of a very offensive savour.

While he lay under this disguise, he penned his declaration and apology, which have sufficiently proved his honourable designs in that voyage, and answered the little calumnies of his enemies. When he was brought to London, he was allowed the confinement of his own house; but finding the court wholly guided by Gondamor, he could hope for little mercy; therefore, he wisely contrived the design of an escape into France, which sir Lewis Stukely betrayed. But the fate of traitors pursued him, and brought him to

a contemptible end; he died a poor distracted beggar in the isle of Lindey, having, for a bag of money, falsified his faith, confirmed by the tie of the sacrament (if we may give credit to Mr. Howel, who hath given us this story); for before the year came about, he was found clipping the very same coin in the king's own house, at Whitehall, which he had received for a reward of his perfidiousness; for which, being condemned to be hanged, he was forced to sell himself to his shirt, to purchase his pardon of two knights.

King James was willing to sacrifice the life of sir Walter to the advancement of peace with Spain, but not upon such grounds as the ambassador had designed; for he desired a judgment upon the pretended breach of peace, that by this occasion he might slily gain from the English an acknowledgment of his master's right in those places, and thereafter both stop their mouths, and quench their heat and valour. Hence upon his old condemnation (for having had experience upon a former trial, they cared not to run the hazard of a second), he was sentenced: the old judgment being only averred against him.

Sir Walter being brought to the bar on the 28th of October, 1618, Mr. Attorney (Mr. Henry Yelverton) spake in effect thus:—

"My lords, sir Walter Raleigh, the prisoner at the bar, was, fifteen years since, convicted of high-treason, by him committed against the person of his majesty, and state of this kingdom, and then received the judgment of death, to be hanged, drawn, and quartered. His majesty of his abundant grace hath been pleased to show mercy upon him, till now that justice calls unto him for execution.

"Sir Walter Raleigh hath been a statesman, and a man, who, in regard to his parts and quality, is to be pitied. He hath been as a star at which the world hath gazed; but stars may fall; nay, they must fall when they trouble the sphere wherein they abide. It is, therefore, his majesty's pleasure now to call for execution of the former judgment, and I now require order for the same."

The record of his conviction and judgment being read; then the prisoner being asked, "what he could say for himself why execution should not be awarded against him," he spoke shortly, that he had been, since his conviction, intrusted with power as marshal over life and death, and that he was therefore discharged of the judgment; but these matters being immediately ruled against him, he sent in to complain that he had hard measure in his former trial, and to petition for the king's mercy.

Lord chief-justice (sir Henry Montague).—Sir Walter Raleigh, you must remember yourself; you had an honourable trial, and you were justly convicted, and it were wisdom in you now to submit yourself, and to confess your offence did justly draw upon you that judgment which was then pronounced against you; wherefore I pray you, attend what I shall say unto you. I am here called to grant execution upon the judgment given you fifteen years since; all which time you have been as a dead man in the law, and might at any minute have been cut off, but that the king in mercy spared you. You might think it strange if this were done in cold blood, to call you to execution, but it is not so: for new offences have stirred up his majesty's justice to remember to revive what the law hath formerly cast upon you. I know you have been valiant and wise, and I doubt not but you retain both those virtues, for you now shall have occasion to use them. Your faith hath heretofore been questioned, but I am resolved you are a good Christian; for your book, which is an admirable work, doth testify as much. I would give you counsel, but I know you can apply unto yourself, far better than I am able to give you; yet will I, with the good neighbour in the gospel, who, finding one in the way wounded and distressed, poured oil into his wounds and refreshed him. I give unto you the oil of comfort, yet in respect that I am a minister of the law, mixed with vinegar. Sorrow will not avail you in some kind: for were you pained, sorrow would not ease you; were you afflict-

ed, sorrow would not relieve you; were you tormented, sorrow would not content you: and yet the sorrow for your sins would be an everlasting comfort to you. You must do as that valiant captain did, who, perceiving himself in danger, said, in defiance of death, "*Death, thou expectest me, but, maugre thy spite, I expect thee.*" Fear not death too much, nor fear not death too little; not too much, lest you fail in your hopes; not too little, lest you die presumptuously. And here I must conclude with my prayers to God for it, and that he would have mercy on your soul.

And so the lord chief-justice ended with these words, "execution is granted."

From Westminster-hall he was carried to the Gate-house, and from thence, the next morning, to the Parliament-yard, where he had the favour of the axe granted him. All persons have wondered how that old sentence, that had laid dormant sixteen years and upwards against sir Walter, could have been made use of to take off his head afterwards. Considering the then lord-chancellor Verulam told him positively (as sir Walter was acquainting him with that proffer of sir William St. Geon, for a pecuniary pardon, which might have been obtained for a less sum than his Guiana preparations amounted to), in these words: "Sir, the knee-timber of your voyage is money; spare your purse in this particular; for, upon my life, you have a sufficient pardon for all that is passed already; the king having, under his broad seal, made you admiral of your fleet, and given you power of martial-law over the officers and soldiers." It was the opinion of most lawyers, that he who, by his majesty's patent, had power of life and death over the king's liege people, should be esteemed or judged *rectus in curiâ*, and free from all old convictions. But sir Walter made the best defence for his Guiana actions in his letter to his majesty, which we have here inserted.

"May it please your most excellent Majesty,

If, in my journey outward-bound, I had my men murdered at the island, and yet refused to take revenge; if I did discharge some Spanish barks taken, without spoil; if I did forbear all parts of the Spanish Indies, wherein I might have taken twenty of their towns, on the sea-coast, and did only follow the enterprise I undertook for Guiana, where, without any directions from me, a Spanish village was burnt, which was new set up, within three miles of the mine; by your majesty's favour, I find no reason why the Spanish ambassador should complain of me. If it were lawful for the Spaniards to murder twenty-six Englishmen, binding them back to back, and then cutting their throats, when they had traded with them a whole month, and came to them on the land without so much as one sword; and that it may not be lawful for your majesty's subjects, being charged first by them, to repel force by force, we may justly say, O miserable English! If Parker and Metham took Campeachy, and other places in the Honduras, seated in the heart of the Spanish Indies, burnt towns, killed the Spaniards, and had nothing said to them at their return, and myself forbore to look into the Indies, because I would not offend; I may justly say, O miserable sir Walter Raleigh! If I spent my poor estate, lost my son, suffered by sickness, and otherwise a world of miseries; if I have resisted, with the manifest hazard of my life, the robberies and spoils which my company would have made; if, when I was poor, I might have made myself rich; if, when I had got my liberty, which all men and nature itself doth so much prize, I voluntarily lost it; if, when I was sure of my life, I rendered it again; if I might elsewhere have sold my ship and goods, and put 5 or £6000 in my pocket, and yet have brought her into England; I beseech your majesty to believe, that all this I have done, because it should not be said to your majesty, that your majesty had given liberty and trust to a man whose end was but the recovery of his liberty, and who had betrayed your majesty's trust. My mutineers told me, that if I returned to England, I should be undone; but I believed in your majesty's goodness more than in all their arguments. Sure I am,

that I am the first that, being free and able to enrich myself, have embraced poverty and peril; and as sure I am, that my example shall make me the last. But your majesty's wisdom and goodness I have ever made my judges who have ever been and shall ever be,

"Your majesty's most humble vassal,

"WALTER RALEIGH."

This noble and eloquent apology could not, however, satisfy Gondamor's rage, who was resolved to sacrifice the only favourite left of queen Elizabeth, to the Spanish interest; and who, as Osborn remarks, was the only person of Essex's enemies that died lamented; and the only man of note left alive, that had helped to beat the Spaniards in the year 1588.

Upon Thursday, the 29th of October, 1618, sir Walter Raleigh was conveyed, by the sheriffs of London, to a scaffold in Old Palace-yard, at Westminster, where he was executed about nine o'clock in the morning of the same day; his confession and several speeches that he there delivered, we shall give in the words of an old author.

His first appearance upon the scaffold was with a smiling countenance, saluting the lords, knights, and gentlemen, with others of his acquaintance there present, when, after a proclamation of silence by an officer appointed, he began to speak in this manner:

"I desire to have some allowance made me, because this is the third day of my fever; and if I show any weakness, I beseech you to attribute it to my malady, for this is the hour I look for it."

Then pausing awhile, and directing himself towards a window, where lord Arundel and lord Doncaster, with some other lords and knights, sate, with a loud voice he said as follows:—

"I thank God of his infinite goodness, that he hath sent me to die in the sight of so honourable an assembly, and not in darkness." But by reason the place where they sat was some distance from the scaffold, that they could not easily hear him, he said, "I will strain myself, for I would willingly have your honours hear me."

Lord Arundel answered, "We will come upon the scaffold;" where, after he had saluted every one of them severally, he began as follows:—

"As I said, I thank my God heartily, that he hath brought me into the light to die, and not suffered me to die in the dark prison of the Tower, where I have suffered a great deal of adversity, and a long sickness; and I thank God that my fever hath not taken me at this time, as I prayed God it might not.

"There are two main points of suspicion that his majesty hath conceived against me, wherein his majesty cannot be satisfied, which I desire to clear and resolve you in.

"One is, that his majesty hath been informed that I have had some plot with France, and his majesty had some reason to induce him thereunto. One reason that his majesty had to conjecture so, was, that when I came back from Guiana, being come to Plymouth, I endeavoured to go to Rochelle, which was because I would fain have made my peace before I came to England. Another reason was, that, upon my flight I did intend to fly to France, for saving of my life, having had some terror from above. A third reason was, the French agent's coming to me; and it was reported I had commission from the king of France.

"But this I say, for a man to call God to witness to a falsehood at any time is a grievous sin, and what shall we hope for at the Tribunal Day of Judgment? But to call God to witness to a falsehood at the time of death, is far more grievous and impious, and there is no hope for such an one. And what should I expect, that am now going to render an account of my faith? I do, therefore, call the Lord to witness, as I hope to be saved, and as I hope to be seen in his kingdom, which will be within this quarter of an hour, I never had any commission from the king of France, nor any treaty with the

French agent, nor with any from the French king; neither knew I that there was an agent, or what he was, till I met him in my gallery at my lodging unlooked for. If I speak not true, O Lord, let me never come into thy glory.

"The second suspicion was, that his majesty hath been informed that I should speak dishonourably and disloyally of him. But my accuser was a base Frenchman, a kind of chemical fellow, one whom I knew to be perfidious; for being drawn into this action at Winchester, in which my hand was touched, and he being sworn to secrecy over night, revealed it in the morning.

"But in this I speak now, what have I to do with kings? I have nothing to do with them, neither do I fear them; I have now to do with God; therefore, as I hope to be saved at the last day, I never spoke dishonourably, disloyally, nor dishonestly of the king, neither to this Frenchman, nor to any other; neither had I ever, in all my life, a thought of ill against his majesty; therefore I cannot but think it strange, that this Frenchman, being so base, so mean a fellow, should be so far credited; and so much for this point. I have dealt truly, and I hope I shall be believed. I confess, I did attempt to escape, and I did dissemble, and made myself sick at Salisbury, but I hope it was no sin. The prophet David did make himself a fool, and did suffer spittle to fall upon his beard, to escape the hands of his enemies, and it was not imputed to him as sin; and I did it to prolong time till his majesty came, hoping for some commiseration from him.

"I forgive this Frenchman, and Sir Lewis Stukely, and have received the sacrament this morning from Mr. Dean; and I do also forgive all the world. But thus much I am bound in charity to speak of this man, that all men may take good heed of him: sir Lewis Stukely, my kinsman and keeper, hath affirmed, that I should tell him, that I did tell lord Carew and lord Doncaster of my pretended escape. It was not likely that I should acquaint two privy-counsellors of my purpose; neither would I tell him, for he left me six, seven, eight, nine, or ten days, to go where I listed, while he rode about the country.

"Again, he accused me, that I should tell him, that lord Carew and lord Doncaster would meet me in France, which was never my speech or thought.

"Thirdly, he accused me, that I showed him a letter, and that I should give him £10,000 for my escape; but cast my soul into everlasting fire, if ever I made him an offer of £10,000 or £1000. I merely showed him a letter, that if he would go with me, his debts should be paid when he was gone; neither had I £1000; for if I had had so much, I could have done better with it, and made my peace otherwise.

"Fourthly, when I came to sir Edward Pelham, who had been sometimes a follower of mine, who gave me good entertainment; he gave out that I had received some dram of poison in sir Edward Pelham's house; when I answered, that I feared no such thing, for I was well assured of them in the house. Now, God forgive him, for I do, and I desire God to forgive him. I will not only say, God is the God of revenge, but I desire God to forgive him, as I hope to be forgiven."

Then he looked over his note of remembrance.

"Well (saith he), thus far I have gone: now a little more, and I will have done by and by.

"It was told the king I was brought per force into England, and that I did not intend to come again; whereas, captain Charles Parker, Mr. Tresham, Mr. Leak, and divers others that knew how I was dealt withal, shall witness for me; for the common soldiers (which were one hundred and fifty) mutinied, and sent for me to come into the gun-room to them (for at that time they would not come to me), and there was I forced to take an oath, that I would not come into England till they would have me, else they would cast me into the sea and drown me; afterwards they entered my cabin, and set

themselves against me. After I had taken this oath, with wine and other things, I drew the chiefest of them to desist, and at length persuaded them to go into Ireland; then they would have gone into the north parts of Ireland, but I told them they were *red-shanks;* yet at last, with much ado, I persuaded them to go into the south parts, promising to get their pardons; but was forced to give them £125 at Kinsale, to bring them home, otherwise I had never got from them.

"There was a report that I meant not to go to Guiana at all; and that I knew not of any mine, nor intended any such matter, but only to get my liberty, which I had not the wit to keep. But it was my full intent to go for gold, for the benefit of his majesty and those that went with me, with the rest of my countrymen; but he that knew the head of the mine would not discover it when he saw my son was slain, but made himself away."

Then he turned to lord Arundel, and said,

"Being in the gallery in my ship, at my departure, your honour took me by the hand, and said you would request me one thing, which was, 'that whether I made a good voyage or bad, yet I should return again into England; when I made you a promise, and gave you my faith that I would.'—'And so you did,' answered my lord; 'it is true, they were the last words I spoke unto you.'

"Another opinion was, that I carried to sea with me 1600 pieces, and that was all the voyage I intended, only to get money into my hands, and that I had weighed my voyage before; whereas, I protest I had but £100 in all the world, whereof I gave £25 to my wife: the reason of this speech was this; there was entered £20,000, and yet but £4000 in the surveyor's book; now I gave my bill for the other £16,000 for divers adventures; but I protest I had not one penny more than £100, as I hope to be saved.

"Another slander was raised, that I would have gone away from them and left them at Guiana, but there were a great many worthy men that accompanied me always, as my sergeant-major George Raleigh, and divers others (which he then named), knew that my intent was nothing so. And these be the material points I thought good to speak of; I am now at this instant to render my account to God; and I protest, as I shall appear before him, this that I have spoken is true.

"I will speak but a word or two more, because I will not trouble Mr. Sheriff too long.

"There was a report spread that I should rejoice at the death of lord Essex, and that I should take tobacco in his presence; when, as I protest, I shed tears at his death, though I was one of the contrary faction; and, at the time of his death, I was all the while in the armory at the further end, where I could but see him. I was sorry that I was not with him, for I heard he had a desire to see me, and be reconciled to me. So that I protest I lamented his death, and good cause had I; for after he was gone I was little beloved.

"And now I entreat you all to join with me in prayer, that the great God of Heaven, whom I have grievously offended, being a man full of all vanity, and have lived a sinful life, in all sinful callings, having been a soldier, a captain, a sea-captain, and a courtier, which are all places of wickedness and vice; that God (I say) would forgive me, and cast away my sins from me, and that he would receive me into everlasting life. So I take my leave of you all, making my peace with God."

Then proclamation being made, that all men should depart the scaffold, he prepared himself for death, giving away his hat and wrought night-cap, and some money to such as he knew that stood near him; taking his leave of the lords, knights, and other gentlemen, and among the rest, taking his leave of the lord of Arundel, he thanked him for his company, and entreated him to desire the king, that no scandalous writing to defame him might be published

after his death, saying unto him, "I have a long journey to go, and therefore will take my leave."

Then putting off his gown and doublet, he called to the headsman to show him the axe, which being not presently showed him, he said, "I pray thee let me see it, dost thou think that I am afraid of it?" And having it in his hands, he felt along upon the edge of it, and, smiling, spake to the sheriff, saying, "This is a sharp medicine, but it is a physician for all diseases." Then going to and fro upon the scaffold, on every side, he prayed the company to pray to God to assist him and strengthen him.

Being asked which way he would lay himself, on which side the block, as he stretched himself along, and laid his head on the block, he said, "So the heart be right, it is no matter which way the head lieth." And then praying, after he had forgiven the headsman, having given him a sign when he should do his office, at two blows he lost both head and life, his body never shrinking nor moving. His head was showed on each side of the scaffold, and then put into a red leather bag, and his wrought velvet gown thrown over it, which was afterwards conveyed away in his lady's mourning-coach.

The large effusion of blood which proceeded from his veins amazed the spectators, who conjectured he would have survived many years, though now near fourscore years old.

He behaved himself at his death with so high and so religious a resolution, as if a Christian had acted a Roman, or rather a Roman a Christian: and by the magnanimity which was then conspicuous in him, he abundantly baffled the calumnies of those who had accused him of atheism.

Thus died that knight, who was Spain's scourge and terror, and Gondamor's triumph; whom the whole nation pitied, and several princes interceded for; Queen Elizabeth's favourite, and her successor's sacrifice; a person of so much worth, and such great interest, that king James would not execute him without an apology. One of such incomparable policy, that he was too hard for Essex, was the envy of Leicester, and Cecil's rival; who grew jealous of his excellent parts, and was afraid of his being supplanted by him. His head was wished on the secretary's shoulders, and his life valued by some at a higher rate than the infanta of Spain, though a lady incomparably excellent both in mind and body.

Authors are perplexed under what topic to place him, whether of statesman, seaman, soldier, chemist, or chronologer; for in all these he excelled. He could make every thing he read or heard his own, and his own he could easily improve to the greatest advantage. He seemed to be born to that only which he attempted, so dexterous was he in all his undertakings.

JAMES O'COIGLEY, ARTHUR O'CONNOR, JOHN BINNS, JOHN ALLEN, AND JEREMIAH LEARY,

FOR HIGH-TREASON, AT MAIDSTONE, 1798.

The indictment was read by Mr. Knapp, who afterwards stated the charges it contained in a summary manner. He said there were three distinct species of treason charged in the indictment, and seven overt acts. The first charge was, compassing and imagining the death of the king; the second, adhering to his enemies; the third, compassing and imagining, inventing, devising, and intending to move and stir certain foreigners, and strangers, that is to say, the persons exercising the powers of government in France, to invade this kingdom. The first overt act was, conspiring to levy war at

Margate, in the county of Kent; the second overt act, sending intelligence to the enemy; the other overt acts were attempts to hire vessels, and to leave the kingdom.

Mr. Abbott opened the case on the part of the crown, and the attorney-general detailed the whole of the circumstances, stating the tenor of the paper, purporting to be an address to the directory of France, together with several letters of a treasonable tendency. He entered into a minute history of the conduct of the prisoners, from February 27 till the time of their apprehension, in order to show their design was to get to France.

On the next day, the court being met, Mr. Plomer, as leading counsel for Messrs. O'Connor and O'Coigley, opened the defence in an able speech, which occupied four hours and a half in delivery. O'Coigley, in his defence, addressed the jury as follows:—

"It is impossible for me to prove a negative; but it is a duty I owe to you, and to myself, solemnly to declare, that I never was the bearer of any message or paper of this kind to France in the course of my life. That paper is not mine; it never belonged to me. It states, that it was to be carried by the bearer of the last; this is something which might have been proved, but it is impossible for me to prove the negative. There is also in this paper an allusion to secret committees and political societies. I declare that I never attended any political Society whatever. With these considerations, I consign my life to your justice; not doubting but that you will conduct yourselves as English jurymen ever do, and that your verdict will be such as shall receive the approbation of your own conscience, your country, and your God."

The jury, after about half an hour's consideration, found O'Coigley *Guilty*, but acquitted the rest.

Mr. Justice Buller, in an address to O'Coigley, which he read from a written paper, previous to his passing the sentence, observed, that he had been clearly convicted of the most atrocious crime which could be committed in any country; and then, in a solemn manner, passed the following sentence: —That the prisoner be taken from the bar to the prison, and from thence to the place of execution; there to be hanged, but not until he be dead; to be cut down while yet alive, and then have his heart and bowels taken out and burnt before his face; his head to be severed from his body, and his body to be divided into four quarters.

On O'Coigley's being tied up to the gallows, on the 7th of June, he made the following speech:

"I shall only here solemnly declare that I am innocent of the charge for which I suffer. I never was in my life the bearer of any letter, or other paper or message, printed, written, or verbal, to the directory of France, nor to any person on their behalf; neither was I ever a member of the London Corresponding Society, or of any other political society in Great Britain; nor did I ever attend any of their meetings, public or private—so help me God! I know not whether I shall be believed here in what I say, but I am sure I shall be believed in the world to come. It can scarcely be supposed that one like me, in this situation, going to eternity, before the most awful tribunal, would die with a falsehood in his mouth; and I do declare, by the hopes I confidently feel of salvation and happiness in a future state, that my life is falsely and maliciously taken away by corrupt and base perjury, and subornation of perjury, in some cases proceeding from mistake, no doubt, but in others from design. Almighty God forgive all my enemies! I beg of you to pray that God will grant me grace—for I have many sins to answer for; but they are the sins of my private life, and not the charge for which I now die. (Raising his voice), Lord have mercy on me, and receive my soul."

The board was then let down, and he remained suspended for twelve or thirteen minutes; he was then taken down, decapitated by a surgeon, and the executioner held up his head to the populace, saying, "This is the

head of a traitor." Both head and body were then put into a shell, and buried at the foot of the gallows.

The chief evidence against O'Coigley was a police officer, who swore that he found in his great-coat pocket an address from the society of United Irishmen to the Executive Directory of France, inviting its co-operation against the British government in Ireland. The great-coat, said to contain this important treasonable document, was found hanging in the open passage of the inn, at Margate, at which O'Coigley, O'Connor, Binns, and another were residing. It was found that the great-coat belonged to O'Coigley; but it was strongly doubted, before and after his execution, whether it was probable that such a paper would have been left in such a situation. A Mr. Fenwick, after his death, published a long and able pamphlet, in which he contended that the evidence was incomplete, improbable, and unsatisfactory; and it was otherwise contended, that no such address was either moved in the society, or in any way necessary or useful to be presented.

After the verdict had been pronounced, the sympathy which was excited among the numerous political friends of Mr. O'Connor led them, under an apprehension that he might be detained, to endeavour to facilitate his departure. A rush of these persons, therefore, took place towards the bail dock, and a scuffle ensued between the police officers, who had a warrant to retain O'Connor and these parties. It was alleged, that the earl of Thanet, Dennis O'Bryen, T. Thompson, and T. G. Brown, esqrs. and Mr. Fergusson, the barrister, were conspicuous in this affray, and in consequence they were prosecuted for a riot in the court, to facilitate the escape of Mr. O'Connor; and Mr. Fergusson and lord Thanet being found guilty, his lordship was sentenced to be imprisoned in the Tower for one year, to pay a fine of £1000, and give security for his good behaviour for seven years in £20,000; and Mr. Fergusson was sentenced to the same term of imprisonment in the King's Bench, to pay a fine of £100, and to give security for seven years for £1000.

MISS ANN BROADRIC,

FOR THE MURDER OF MR. ERRINGTON, 1795.

Miss Ann Broadric, was a young lady of considerable abilities, a fine figure, and much admired for her accomplishments and personal attractions. Three or four years after Mr. E.'s divorce from his former wife for her adultery, he addressed Miss Broadric, and lived with her nearly three years, with every appearance of comfort. Mr. E. however, saw another beautiful object, possessed of a large fortune, to whom he transferred his affections, and after a little time, gave her his hand. On his marriage he settled what he deemed a suitable provision on Miss Broadric; stated to her explicitly the variation of his sentiments, and added that he could never see her more.

After the first agonies of her grief, Miss Broadric sent the following remonstrance. The desired interview was refused; but she still persised by letters, to move him to grant her this last request; but finding him inexorable, she wrote to him, "That if nothing could induce him to do her this act of common justice, he must prepare himself for the fatal alternative, as she was determined *that he should not long survive his infidelity!*"

"*September* 11, 1794.

Dear E.—That you have betrayed and abandoned the most tender and affectionate heart that ever warmed a human bosom, cannot be denied by any

person who is in the least acquainted with me. Wretched and miserable as I have been since you left me, there is still a method remaining that would suspend, for a time, the melancholy suffering and distress which I labour under at this moment; and still, inhuman as thou art, I am half persuaded, when I tell you the power is in your hands, that you will not withhold it from me. What I allude to is, the permission of seeing you once more, and perhaps for the last time. If you consider that the request comes from a woman you once flattered into a belief of her being the sole possessor of your love, you may not, perhaps, think it unreasonable. Recollect, however, E., ere you send a refusal, that the roaring of the tempest, and the lightnings from Heaven are not more terrible than the rage and vengeance of a disappointed woman. Hitherto you can only answer for the weakness and frailty of my nature. There is a further knowledge of my disposition you must have if you do not grant me the favour demanded. I wish it to come voluntarily from yourself, or else I will force it from you. Believe me in that case I would seek you in the farthest corner of the globe, rush into your presence, and with the same rapture that nerved the arm of Charlotte Cordet, when she assassinated the monster Maratt, would I put an end to the existence of a man, who is the author of all the agonies and care that at present oppress the heart of "ANN BROADRIC."

After a lapse of a month, receiving no answer whatever, she dressed herself elegantly, early on the Friday morning, May 15th, went to the Three Nuns inn, in Whitechapel, and took a place in the Southend coach, which passed very near Mr. E.'s house at Grays. She got out at the avenue gate, and in her way was recognised by Mr. E., who told his wife, that that tormenting woman, Broadric, was coming; but that he should soon get rid of her, if she, Mrs., E. would retire a few minutes. Mrs. E. however, did not consent to this, but prevailed upon her husband to go up-stairs into the drawing-room, and leave the interview to her management. Miss B. being shown into the house, asked for Mr. E.; but was told by Mrs. E. that he was not at home. "I am not to be so satisfied, madam," replied Miss B. "I know the ways of this house unfortunately too well, and therefore, with your leave, I'll search for him!" On this, she rushed into the drawing-room, and finding him there, she drew a pistol, with a new hagged flint, from her pocket, and presenting it at his left side, directed to his heart, exclaimed, "I am come, Errington, to perform my dreadful promise!" and instantly pulled the trigger. Surprised at his not falling, she said, "Good God! I fear I have not despatched you! but come deliver me into the hands of justice!"

Mrs. E. burst into the room, and seeing her husband bleeding, fainted away. Mr. E. now remonstrated with her, and asked her if he had ever deserved this at her hands, after the care he had taken to settle her so comfortably in the world? She gave no other answer than a melancholy shake of the head.

Mr. Miller, a neighbouring surgeon, being called in, found that the ball had penetrated at the lowest rib, cut three ribs asunder, and then passed round the back, and lodged under the shoulder bone, from whence every effort was made to extract it, but in vain.

Mr. Button, a magistrate, came, who took the examination of Mr. E. after his wound was dressed. He asked Miss Broadric what could induce her to commit such an act of extreme violence? Her answer was, that she was determined that neither Mr. E. nor herself should long outlive her lost peace of mind.

Mr. E. entreated of the magistrate not to detain her in custody, but to let her depart, as he was sure he should do well; but this request Miss B. refused to accept, or the magistrate to grant. Her commitment being made out, she was conveyed that evening to Chelmsford jail, where she remained composed till she heard of Mr. E.'s death, when she burst into a flood of tears,

and lamented bitterly that she had been obliged to be the cause of his death. The coroner's inquest sat on the body on Tuesday, the 19th of May, and brought in their verdict, *Wilful murder by the hands of Ann Broadric.*

On Friday, July 17th, Ann Broadric was conveyed to the shire-hall; she was conducted into the bail dock in the criminal court, attended by three ladies and her apothecary. She was dressed in mourning, without powder; and after the first perturbations were over, occasioned by the concourse of surrounding spectators, she sat down on a chair prepared for her, and was tolerably composed, except at intervals, when she evinced violent agitation. When the indictment was reading, she paid marked attention to it; and on the words, "that on the right breast of the said G. Errington, she did wilfully and feloniously inflict one mortal wound," &c. she exclaimed, "Oh, my great God!" and burst into a torrent of tears.

The prosecution for the crown was opened by Mr. Garrow, who demonstrated the painful execution of his office by the humane and affecting exordium with which he addressed the jury preparatory to the statement of the evidence he was instructed to adduce.

George Bailey, sworn.—Said he was servant to the deceased Mr. Errington; saw Miss Broadric come into the kitchen on the 13th of May last; did not know her; she asked whether Mr. E. was at home? he answered, yes; and desired the gardener to show the lady into the parlour, while he put on his shoes, and went up to inform his master, then in the drawing-room; that he saw Mrs. E. and the lady meet at the parlour door [here Miss Broadric shook her head and groaned deeply]. He perceived that the ladies were strangers to each other. Miss B. asked Mrs. E. if Mr. E. was to be spoken with? She answered, "Yes, ma'am; pray walk up-stairs." His mistress went up first; he returned to the kitchen; and in the space of a minute he heard the report of a pistol, the shrieks of his mistress, and also his master cry out and groan! He ran up-stairs, and passing some workmen, desired them to go up with him, as something dreadful had happened. On entering the drawing-room, he beheld his master all over blood, and leaning, with his left hand on his right breast, who exclaimed, "Oh, God! I am shot! I am murdered!" Mrs. E. instantly ordered him to take that woman into custody, for she had murdered her husband. On this Miss B. threw a pistol out of her left hand on the carpet, and laughing, cried out, "Here, take me, hang me, and do what you will with me; I don't care now!" He told the workmen to take care of the prisoner till he came back: he then ran to the stable, took a horse, and rode for Mr. Childers, the surgeon, about a mile off; desired him to mount the horse, and make haste to his master, who was shot; he followed soon after with two constables, when he found the doctor and Mrs. E. with his master. Miss B. he saw afterwards in the parlour below; that on seeing her right hand in her pocket, he told the constable he thought she had another pistol in her pocket; that the constable went behind her, and took hold of both her arms, when she said, "What are you going to do?" He replied, "Not to hurt you in the least, ma'am, but it is our duty to put these handcuffs upon you:" which they did. She rejoined, "Let me put my hand in my pocket first?" The constable answered, "No!" She said, "I want to give you something."—"Some other time," replied the other. The witness then asked her whether she had not another pistol. She answered, "I have!" and in a lower tone of voice, said to him, "This I intended for myself!" He then sent for a woman servant, and desired her to search her; which she did, and immediately drew another pistol from her pocket.

John Eves lived at the Bull Inn, Whitechapel. Miss B. came to him about the 11th of May, and gave him a letter to carry to Mr. E. which he delivered to him on the 13th, at Gray's, who asked him whether it did not come from Miss B.? He replied, it did. Mr. E. then bade him take it back, as he

should see her at the fair; he took the letter to her again unopened the next day. This letter was as follows:—

"*Dear Sir*,—As I intend going to Southend on Wednesday, I wish to speak a few words to you on money affairs, as I have received no answer to the letter from Mr. — (Mr. E.'s solicitor). I fear you are deceived in the person you intrust. I wish you would meet me at the Dog and Partridge, at Stifford, as I have not had the money you promised me I should receive."

Here the evidence for the crown was closed, and several persons were called in, who proved the prisoner's insanity.

The lord chief-baron, before he summed up the evidence, called the attention of the jury to the particular plea of insanity, on which the defence of the prisoner had been rested, as no denial had been set up against the perpetration of the deed, of which, indeed, there had been given the fullest and clearest evidence. The law certainly required that the will should accompany the act, to constitute a felonious murder. The defence in the present case was, that the prisoner was incapable of lending her will to the perpetration of the crime with which she stood charged. On the whole, if the jury thought the latent seeds of derangement, after a convulsive struggle of six months, had been called forth on this horrible occasion, so as to overwhelm the senses of the unhappy prisoner, they were bound in conscience to acquit her. If, on the other hand, they believed that it was the preparatory pangs of a mind intent on gratifying its revenge by the death of its object, they must find her guilty; but they scarcely need be told, that, should a doubt remain on their minds, common charity required that the balance should turn in the prisoner's favour.

The jury consulted about two minutes, and then gave their verdict—*Not Guilty*.

The judges directed that Miss B. should be examined before two magistrates, that she might be safely removed, under their order, to the place of her settlement, with a particular recommendation annexed thereto, that she might be treated with all possible care.

WILLIAM CORDER,

FOR THE MURDER OF MARIA MARTEN.

The indictment charged William Corder with having, on the 18th of May, 1827, murdered Maria Marten, by feloniously and wilfully shooting her with a pistol through the body, and likewise stabbing her with a dagger. The indictment consisted of ten counts.

The first witness called was Ann Marten, the wife of Thomas Marten, who deposed, that she lived at Polstead, and her husband's daughter was Maria Marten. The prisoner was acquainted with Maria intimately. Maria became pregnant in the course of that intercourse; and, about seven weeks before May, 1827, she returned to her father's house accompanied by an infant child, who died about a fortnight afterwards. Corder still continued to come to the house, and admitted he was the father of this infant. He used to converse often with Maria; and, when the child was buried, he said he had carried it to Sudbury for that purpose. She remembered his more than once talking about a £5 note, and Maria used to say, he had taken away her bread and her child's. Maria had had a child previously, which was kept by the wit

ness. Corder told Maria, that the parish officers were going to take her up for having bastard children. On the Sunday, before Friday the 18th of May, he came to the cottage, where he stopped half an hour or three quarters, and then went out with Maria; both saying, they were going to Ipswich early on the Monday morning, after sleeping at his mother's house. She returned between three and four o'clock in the morning, and Corder came again on that day, and said they should go to Ipswich on the Wednesday night. They did not, however, go at that time, in consequence of Stoke fair, but fixed Thursday night for the journey, when again there was a disappointment, as he said his brother James was hourly expected to die. On the Friday (the day laid in the indictment), about eleven or twelve o'clock, Corder came, and went up-stairs to witness and Maria. To the latter he said, "I am come, Maria—make haste—I am going." She replied, "How can I go at this time of the day, without anybody seeing me?" He said, "Never mind, we have been disappointed a good many times, and we will be disappointed no more." After they had this conversation, she asked him, "How am I to go?" He replied, "You can go to the Red Barn, and wait till I go to you there in the course of the evening." Maria said, "How am I to order my things?" He replied he would take the things, carry them up to the barn, and come back to walk with her; adding, that none of his workmen were in the fields, or at the barn, and he was sure the course was quite clear. Maria's things, consisting of a reticule, wicker basket, a velvet one, two pair of black silk stockings, a silk gown of the same colour, a cambric skirt, and other articles of dress, were put into a brown holland bag, which Corder carried away in his hand. She (Maria) then dressed herself in a brown coat, striped waistcoat, and blue trowsers, wearing underneath her under female petticoat, white stays, green and red handkerchief, a silk one, and an Irish linen chemise, which the deceased had herself made. Witness had laced on the stays for Maria on that morning, and knew the marks upon them (which she described), as well as those on the shoes which she wore. He assigned as the reason for going on that day to Ipswich, that John Balam, the constable, came to him on that morning to the stable, saying he had got a letter from Mr. Whitmore of London, which enclosed a warrant to take Maria, and prosecute her for her bastard children. Witness said "Oh, William, if you had but married Maria before this child was born, as I wished, all this would have been settled!"—"Well," said he, "I am going to Ipswich to marry her to-morrow morning." Witness said, "William, what will you do, if that can't be done?" He replied, "Don't make yourself uneasy; she shall be my lawful wife before I return, or I will get her a place till she can." Maria then went away about half-past twelve o'clock, Corder first desiring witness to look out to the garden, lest somebody should see them going off. They departed by different doors, Maria in man's dress, and with a hat of the prisoner's. She wore a large comb in her hair, and a smaller one, having also ear-rings. They proceeded together in the direction of the Red Barn, and she saw neither of them again on that day, nor indeed ever saw Maria since. William Corder, when he went away with her, carried a gun in his hand, which he said was charged. Maria had besides a green cotton umbrella, with a bone crook handle, and a button. On the following Sunday morning at nine o'clock, witness next spoke to the prisoner at her own house. She said "William, what have you done with Maria?" He answered, "I have left her at Ipswich, where I have gotten her a comfortable place, to go down with Miss Roland to the waterside." On asking him how she was to do for clothes, he said Miss Roland had plenty for her, and would not let him provide any for Maria. He also said, he had gotten a license, but it must be sent to London to be signed, and he could not be married under a month or six weeks. He further mentioned that he had changed a check for £20, and given her the money. On asking him where she dressed, he said she had put her things on in the barn, and that he afterwards put

the male attire into the seat of the coach in which they travelled. Witness had a son named George, and she told Corder, that George had mentioned that he (prisoner) had not left the barn so soon as he promised. This he denied, saying he had left it within three-quarters of an hour after he parted from the house. "No," said witness, "you did not, for George saw you later going down the adjoining field with a pick-axe."—"No, no," replied he, "that was not me, but Tom Acres, who had been planting trees on the hill." She was in the habit of seeing Corder repeatedly up to the month of September,—sometimes two or three times in the day, and he invariably said Maria was well, and living comfortably at Yarmouth with Miss Roland. He used to leave Polstead some times for a day or two, when he was in the habit of saying he had been with Maria, who continued very well, and that, at Michaelmas, he meant to take her home to his mother's farm. No letter had ever come from Maria, and when she often spoke to Corder about her not writing, he replied, she could not, because she had got a bad hand. When he left Polstead, he came to take leave, saying he was going to the water-side for his health, and would call at Yarmouth to take Maria with him, and be married immediately. She never saw him after, till his arrest, nor had she seen the dead body; but all the articles of dress were shown to her (which the witness subsequently identified as being those worn by the deceased on the day she had last seen her). Maria had always a cough; had a wen on her neck, and had lost a tooth from the upper as well as from the lower jaw. Witness attended Corder's brother's funeral soon after the 18th of May, where she saw the prisoner with Maria's umbrella. After the funeral, she talked to him about the umbrella, which he said was not her's, though it was like it, but Deborah Franks's, and he was going to send it back to her at Ipswich, where she had come over with Miss Roland. He had shown the witness a gold ring, which was, he said, to be for Maria's wedding, and also a brace of pistols which he once brought to the house.

Cross-examined by Mr. Broderick.—Witness was the mother of three children. Maria was her step-daughter, and had an own brother and sister, She was anxious for Maria's marriage to Corder, although Maria said nothing about it. She was gone two months at her last lying-in, and then returned in Corder's gig with the prisoner. The infant died in her arms, and Corder and Maria took it away to be buried: where she did not know, but was told at Sudbury. Maria used to dress a little fine, and her sister, as well as witness and her father, often quarrelled with her about it, which made her mostly very dull. There was no secret about their going to the barn. Corder used openly to snap the pistol close to the fire. She saw him bring ham for Maria. He used to give her money as the weekly allowance for the child; and Maria had a quarterly stipend of £5 from Mr. Matthews, by whom she had a child, and another by a third party. She had never heard from anybody but witness, that Maria was exposed to danger by the constables, for having had these children; and this fear kept her within doors. When she went away on the 18th, she was crying, and low-spirited. Corder often came to the house with a gun. She had been examined before the coroner. Prisoner called repeatedly to see Maria, and said, that as long as he had a shilling, she should have it. They seemed always to be very fond of each other. She repeated her account of the manner in which Corder and Maria left the house together for the last time, as it has been already given in her examination in chief.

[During the examination of this witness, the prisoner put on his specta cles, took out a red morocco pocket-book, in which he commenced writing, and looked steadfastly at her. She appeared a decent-dressed country woman; but never returned the prisoner's glance, or took her eyes from the counsel who examined her. About two o'clock he ate and drank with much seeming appetite.]

Thomas Marten, the father of the deceased, corroborated the evidence of

the preceding witness, and stated, that he had received two letters, which he gave to a gentleman who had examined him, and he had since searched the Red Barn at Polstead, on the 19th of last April. On lifting up the straw from the barn floor, he saw some great stones lying in the middle of the bay, and an appearance of the earth having been disturbed. On that spot, he poked down the handle of a rake, and turned something up which was black. On getting further assistance, they discovered, a little under the ground, a small round sharp iron, about a foot long, like a hay-spike, and then they came to the body, and near the head found the handkerchief tied round her neck apparently very tight. The body was lying down, though not stretched out. The legs were drawn up, and the head bent down into the earth. He quitted the barn for half an hour, and returned with another person to make a further examination. They let the body alone, until the coroner and the surgeon came, when they cleared the earth entirely from the body, and raised it up from the floor. On examining it in the light, the mouth looked like Maria's, who had a wen on her neck, and had been ailing for a year or two with a cough. Underneath the body was found a shawl: there were also ear-rings, parts of a stays, of a chemise, and two combs in the hair.

Ann Marten, sister of the deceased, deposed, that she was at home on the 18th of May, when Maria went away with William Corder, and described what then occurred, in nearly the same words as her mother, particularizing each article of her dress. Witness had seen the dead body, when the coroner and jury were present, and was positive it was her sister Maria's. She knew it by the things which were on it, also by her teeth, her mouth, and her features generally. The witness particularly identified the clothes as belonging to her deceased sister, as well as the ear-rings, the combs, &c.

Cross-examined.—Her sister left home on the 18th of May, in very low spirits; but she never heard her say, she was anxious to be married to William Corder. Witness and Maria sometimes quarrelled, and there used to be words between her and her step-mother.

George Marten (brother of the preceding witness), a boy about eleven or twelve years of age, deposed, that he saw his sister on the day she last left the house with Corder, who carried a gun in his hand, which he said was loaded, and therefore cautioned witness not to meddle with it. He saw Corder on the same day, between three and four o'clock, come from the barn alone with a pick-axe, and proceed homewards through the fields.

Phœbe Stow lived at Polstead, about thirty rods from the Red Barn. She remembered Corder calling about one o'clock one day in May last year, when he said, "Mrs. Stow, has not your husband got an old spade to lend me?" She lent him one, and he only said a few words, saying he was in such a hurry, he could not then stop and talk to her. The spade was afterwards returned; but she could not say by whom. On a subsequent occasion, Corder again called, when she asked him where was Maria Marten's child. He said it was dead and buried. He also said she would have no more children. Witness said, why not; she is a young woman yet? He replied, "Never mind, Maria Marten will never have more children."—"What do you go by?" added witness. "Oh," said he, "she has had several, but I'll be d—d, if she shall have any more." Witness continued, "If you are married, why don't you live with her?"—"Oh, no," was his reply, "for I can go to her any day in the year, just when I like."—"Perhaps you are rather jealous," said I, "and when you are not with her, you think somebody else is."—"Oh, no," said he; "when I am not with her, I am sure nobody else is.

William Pyrke deposed, that he drove the prisoner on the 8th of September to Colchester, and talked with him about the business of the farm. Maria Marten's name was mentioned; and he said he had not seen her since May, but spoke very highly of her.

The two following letters, after being identified by Marten as being in Corder's handwriting, and as those which he received, were then read.

"London, Bull Inn, Leadenhall-street, Thursday, October 18.

"*Thomas Marten*,—I am just arrived at London upon business respecting our family affairs, and am writing to you before I take the least refreshment, because I shall be in time for this night's post, as my stay in town will be very short; anxious to return again to her who is now my wife, and with whom I shall be one of the happiest of men. I should have had her with me, but it was her wish to stay at our lodgings at Newport, in the Isle of Wight, which she described to you in her letter; and we feel astonished that you have not yet answered it, thinking illness must have been the cause. In that she gave you a full description of our marriage, and that Mr. Roland was Daddy, and Miss, bride's-maid. Likewise told you they came with us as far as London, where we continued together very comfortable for three days, when we parted with the greatest regret. Maria and myself went on to the Isle of Wight, and they both returned home. I told Maria I should write to you directly I reached London, who is very anxious to hear from you, fearing some strange reason is the cause of your not writing. She requested that you would enclose Mr. Peter's letters in one of your own, should he write to you, that we may know better how to act. She is now mine, and I should wish to study her comfort as well as my own. Let us know all respecting Mr. Peter, and if you can possibly write by return of post, and direct for W. M. C. at the above inn. Maria wished me to give to Nancy a kiss for her little boy, hoping every possible care is taken of him; and tell your wife to let Nancy have any of Maria's clothes she thinks proper, for she says she have got so many, they will only spoil, and make use of any she like herself. In her letter, she said a great deal respecting little Henry, who she feel anxious to hear about, and will take him to herself as soon as we can get a farm whereby we can gain a livelihood, which I shall do the first I can meet with worth notice; for living without some business is very expensive. Still provisions are very reasonable on the Isle of Wight; I think, cheaper than any part of England. Thank God! we are both well, hoping this will find all you the same. We have both been a great deal on the water, and have had some good sea-sicknesses, which I consider have been very useful to us both. My cough I have lost entirely, which is a great consolation. In real truth, I feel better than I ever did before in my life, only in this short time. Maria told you in her letter, how ill I was for two days at Portsmouth, which is seven miles over the water to the Isle of Wight, making altogether one hundred and thirty-nine miles from Polstead. I would say more, but time will not permit. Therefore, Maria unites with me for your welfare; and may every blessing attend you. Mind you direct for W. M. C. at the Bull Inn, Leadenhall-street, London. Write to-morrow, if you can; if not, write soon enough for Saturday's post, that I may get it on Sunday morning, when I shall return to Maria directly I receive it. Enclose Mr. Peter's letters, and let us know whether he has acknowledged little Henry. You must try and read my scribble, but I fear you will never make it out.

"I remain your well-wisher, W. C."

"I think you had better burn all letters, after taking all directions, that nobody may form the least idea of our residence. Adieu.

"*For Thomas Marten*, *Polstead*, *near Stoke by Nayland*, *Suffolk*.

"With speed."

"London, Monday 23d, 1827

"*Thomas Marten*,—I received your letter this morning, which reached London yesterday, but letters are not delivered out here on a Sunday; that I discovered on making inquiry yesterday. However, I could not get through

my business before this afternoon, and I am going to Portsmouth by this night's coach. I have this day been to the General Post-office, making inquiry about the letter Maria wrote you on the 30th of September, which you say never came to your hands. The clerk of the office traced the books back to the day it was wrote, and he said, a letter directed as I told him to you, never came through their office, which I think is very strange. However, I am determined to find out how it was lost, if possible; but I must think coming over the water to Portsmouth, which I will inquire about to-morrow, when I hope to find out the mystery. It is, I think, very odd, that letters should be lost in this strange way. Was it not for the discovery of our residence, I would certainly indict the post-office, but I cannot do that without making our appearance at a court-martial, which would be very unpleasant to us both. You wish for us to come to Polstead, which we should be very happy to do, but you are not aware of the danger. You may depend, if ever we fall into Mr. P——'s hands, the consequence would prove fatal; therefore, should he write to you, or should he come to Polstead, you must tell him you have not the least knowledge of us, but you think we are gone into some foreign part. I think, if you don't hear from him before long, you had better write and tell him you cannot support the child without some assistance, for we are gone you know not where. If you tell him you hear from us, he will force you to say where we was; therefore, I think it will be best not to acknowledge any thing at all. I enclose £1, and you shall hear from us again in a short time. This will not reach you before Wednesday morning, as I am too late for this night's post. You said your wife did not like to take any of Maria's clothes; she said in her last letter, that her old clothes was at their service—I mean your wife and Nancy; but she shall write again as soon as possible. I must now bid you adieu. The coach will start in about ten minutes. I have been so much employed all this day, that I could not write before. Believe me to be your well-wisher for your future welfare,

"W. M. C.

"*For Thomas Marten, Polstead, near Colchester.* (Post paid.)"

Peter Matthews, Esq.—I generally reside in London. I had known Maria for some length of time before last year; and I had last seen her, I believe, on the 31st of August, 1826. In July last year, I was at Polstead, where I saw Corder, and had a conversation with him respecting a £5 Bank of England note, which I had lost. He said he knew nothing of it. I received this letter from the prisoner:

"Sunday afternoon, August 26th, 1827.

"*Sir*,—In reply to your generous letter which reached me yesterday, I beg to inform you, that I was indeed innocent of Maria Marten's residence at the time you requested me to forward the letter I took from Bramford, and will candidly confess, that Maria has been with a distant female relation of mine, since the month of May. About five weeks ago they both went into Norfolk to visit some of my friends. On Friday week, I received a letter from my kindred, who informed that Maria was somewhat indisposed, and that they were then in a village called Herlingby, near Yarmouth. I received an answer by the next post, and enclosed your letter for Maria, which I found reached her perfectly safe, as I took the Yarmouth coach last Wednesday from Ipswich Lamb-fair, and went to Herlingby, when I was sorry to hear that Maria's indisposition was occasioned by a sore gathering on the back of her hand, which caused her great pain, and which prevented her from writing to you, as her fingers are at present immovable. Knowing you would be anxious to hear from her, I particularly wished her to write the first moment she found herself able, which she promised very faithfully to do. I gave her a particular account of our dialogue at Polstead-hall, not forgetting the remarkable kindness I experienced from you, which I shall ever most gratefully acknowledge; and likewise return you my most grateful

thanks for your kindness in respect to your enterprise on my account, when in London.

"I remain, sir, your most obedient, and very humble servant,

"W. CORDER.

"P. S.—I have already enclosed your letter for Maria, in one of my own, which I shall post with this immediately, and beg permission to add, that I am fully determined to make Maria my bride, directly I can settle our family affairs, which will be in about a month or six weeks time. Till that time, Maria wish to continue with my kindred. In concluding, if I can at any time render you any service whatsoever, I shall be most happy to oblige, as I am truly sensible of your generosity.

"*For Peter Matthews, Binfield, near Workingham, Berkshire.*"

Mr. Matthew's examination continued.—I left Polstead on the 9th of August last; Corder on that morning told me he did not know exactly where Maria Marten was; but he believed she was in the neighbourhood of Yarmouth. On the 19th of November following, I met him accidentally near Somerset-house. I asked, if he had forwarded a letter of mine written to Maria Marten, and forwarded to him in one on the 2d of September. He said he had. I told him I was surprised at not receiving any letter or any answer at all from the young woman. I asked him where she then was? He said he had left her in the Isle of Wight. I told him, that her father had written to me once or twice respecting her, and that he was uneasy, not knowing where she was. I inquired of him if he was married to her? He said, "No;" he had not yet settled his family affairs.

James Lea.—I am a police-officer of Lambeth-street. On the 22d of last April, I went to Grove-house, Ealing, at about ten o'clock in the morning. As I entered, Corder came into the hall out of the parlour. I told him I had a little business with him. The prisoner said, walk into the drawing-room, and we went in. I then told him, I was an officer from London, and was come to apprehend him on a very serious charge, and he must consider himself my prisoner. He replied, "Very well." I told him, the charge was respecting a young woman of the name of Maria Marten, whom he had formerly kept company with. I said she had been missing for a length of time, and strong suspicions were attached to him. I continued, "I believe you know such a person? It was a young woman you kept company with in Suffolk." He said no; he did not know such a person. I asked him, "Did you never know such a person?" He said no; I must have made a mistake; he was not the person I wanted. I said, "No, I have not made a mistake—your name is Corder; and I am certain you are the person." I told him to recollect himself; I had asked him twice if he knew such a person, and I would ask him a third time. He still said no, he did not; he never knew such a person. I then proceeded to search his person, and took from his pocket a bunch of keys. I took him to the Red Lion, at Brentford. On our way thither, I said the body of the young woman had been found in his Red Barn. He made no remark then. We proceeded some distance, and he asked me, "When was the young woman found?" I told him on Saturday morning last. He made no further reply. I then left him at the Red Lion, and returned to his house. When I entered, Mrs. Corder showed me upstairs into a dressing-room. I found in the house a pair of pistols, which he admitted to be his, and likewise a sword.

Robert Offord.—I am a cutler, residing at Hadleigh, in this county. The prisoner called at my house in the latter part of March, or beginning of April, 1827. He brought a small sword, and said, "Mr. Offord, I have brought a small sword, which I wish to have ground as sharp as a carving-knife, for the use of a carving-knife." He wished to have it done, and he would call for it that night. The witness identified the sword produced by Lea, as the one he had sharpened for Corder.

John Balam.—I am the constable of Polstead. I never had told the prisoner that I had a warrant to apprehend Maria Marten, or that I had a letter from Mr. Whitmore to apprehend her.

Thomas Acres.—I recollect Stoke fair, in 1827. I know the Red Barn at Polstead, and the thistly lay there. I never went over that field with a pick-axe on my shoulder.

John Lawton.—I am a surgeon, and was present when the coroner's jury went to view the body found in the Red Barn on the 20th of April. It had not been disturbed, except that the earth had been removed from the top of it. It lay in the hole in the barn in which it had been buried, in the right-hand bay of the barn. It was, in parts, much decomposed. I should have said it had been in the ground nine or ten months, or more. There were with it stays, flannel petticoat, shift, a handkerchief round the neck, stockings and garters, and high shoes, with portions of a leghorn bonnet, trimmed with black. (Produced a silk handkerchief.) This was found underneath her hips. (The rest of the articles he mentioned were produced and identified; they were nearly indistinguishable as to material or form.) There was part of the sleeve of a blue coat, and the body was in part of a sack. The right hand was on the right breast. It was the body of a full-grown young woman. There was an appearance of blood about the face, particularly on the right side. I found the green striped handkerchief round her neck, tied in the usual way, but drawn extremely tight, so as to form a complete groove round the neck. It would have produced strangulation. There was in the neck an appearance of a perpendicular stab, about an inch and a half in length, and extending deep into the neck. There was the appearance of injury having been done to the right eye, and the right side of the face. It seemed as if something had passed in at the left cheek, removing the two last grinders, and then out at the right orbit. A ball so passing would not of itself cause death; but the strangulation, and the stab in the neck, would have been sufficient, with the ball, to produce death. There was an adhesion of the lungs to the membrane which lines the ribs on the right side. This would, in life, cause inflammation; and the person would have complained of cough, with pain in the side. The ribs and the heart were brought by Mr. Nairn, a surgeon, to my house. I then saw where something had penetrated between the fifth and sixth ribs, and there was a stab in the heart which corresponded with the opening in the ribs. I found a corresponding opening in the shift. The sword, which has been produced, appears to fit the wound through the ribs and the opening in the shift. I found one part of the wound wide, and the other narrow, so as to correspond with the sword.

The evidence of two other surgeons was to the same effect.

The mother and sister of the deceased identified the articles of dress found on the body taken from the Red Barn as being Maria's.

The prisoner, being called on for his defence, advanced to the front of the bar, took out some papers, and read with a very tremulous voice an address, of which the material passages were the following:

"It has been well observed that truth is sometimes stranger than fiction. Never was this assertion better exemplified than in this hapless instance. In a few short months I have been deprived of all my brothers, and my father recently before that period. I have heard the evidence, and am free to say that, unexplained, it may cause great suspicion; but you will allow me to explain it. Proceeding, my lord and gentlemen, to the real facts of this case, I admit that there is evidence calculated to excite suspicion, but these facts are capable of explanation; and, convinced as I am of my entire innocence, I have to entreat you to listen to my true and simple detail of the real facts of the death of this unfortunate woman. I was myself so stupefied and overwhelmed with the strange and disastrous circumstance, and on that account

so unhappily driven to the necessity of immediate decision, that I acted with fear instead of judgment, and I did that which any innocent man might have done under such unhappy circumstances. I concealed the appalling occurrence, and was, as is the misfortune of such errors, subsequently driven to sustain the first falsehoods by others, and to persevere in a system of delusion. At first I gave a false account of the death of the unfortunate Maria. I am now resolved to disclose the truth, regardless of the consequences. To conceal her pregnancy from my mother, I took lodgings at Sudbury: she was delivered of a male child, which died in a fortnight in the arms of Mrs. Marten, although the newspapers have so perverted that fact; and it was agreed between Mrs. Marten, Maria, and me, that the child should be buried in the fields. There was a pair of small pistols in the bed-room; Maria knew they were there. I had often showed them to her. Maria took them away from me. I had some reason to suspect she had some correspondence with a gentleman, by whom she had a child in London. Though her conduct was not free from blemish, I at length yielded to her entreaties and agreed to marry her; and it was arranged we should go to Ipswich and procure a license, and marry. Whether I said there was a warrant out against her, I know not. It has been proved that we had many words, and that she was crying when she left the house. Gentlemen, this was the origin of the fatal occurrence. I gently rebuked her; we reached the barn; while changing her dress, she flew into a passion, upbraided me with not having so much regard for her as the gentleman before alluded to. Feeling myself in this manner so much insulted and irritated, when I was about to perform every kindness and reparation, I said, 'Maria, if you go on in this way before marriage, what have I to expect after? I shall therefore stop when I can; I will return straight home, and you can do what you like, and act just as you think proper.' I said I would not marry her. In consequence of this, I retired from her, when I immediately heard the report of a gun or pistol, and running back I found the unhappy girl weltering on the ground. Recovering from my stupor, I thought to have left the spot; but I endeavoured to raise her from the ground, but found her entirely lifeless. To my horror I discovered the pistol was one of my own she had privately taken from my bed-room. There she lay, killed by one of my own pistols, and I the only being by! My faculties were suspended. I knew not what to do. The instant the mischief happened, I thought to have made it public; but this would have added to the suspicion, and I then resolved to conceal her death. I then buried her in the best way I could. I tried to conceal the fact as well as I could, giving sometimes one reason for her absence, and sometimes another. It may be said, why not prove this by witnesses? Alas! how can I? How can I offer any direct proof how she possessed herself of my pistols, for I found the other in her reticule? That she obtained them cannot be doubted. All I can say as to the stabs is, that I never saw one; and I believe the only reason for the surgeons talking of them is, that a sword was found in my possession. I can only account for them by supposing that the spade penetrated her body when they searched for the body in the barn. This I know, that neither from me, nor from herself, did she get any stab of this description. I always treated her with kindness, and had intended to marry her. What motive, then, can be suggested for my taking her life? I could have easily gotten over the promise of marriage. Is it possible I could have intended her destruction in this manner? We went, in the middle of the day, to a place surrounded by cottages. Would this have been the case had I intended to have murdered her? Should I have myself furnished the strongest evidence that has been adduced against me? I might, were I a guilty man, have suppressed the time and place of her death, but my plain and unconcealed actions, because they were guiltless, supplied both. Had I intended to perpetrate so dreadful a crime, would I have kept about me some of the articles which

were known to be Maria's? Had I sought her life, could I have acted in such a manner? Had I, I would have chosen another time and place. Look at my conduct since. Did I run away? No! I lived months and months with my mother. I left Polstead in consequence of my family afflictions. I went to the Isle of Wight. It is said, that the passport was obtained to enable me to leave England at any time. No, it was to enable me to visit some friends of my wife's in Paris. Should I have kept her property, had I any thing to fear from their detection? In December last, I advertised in the Times newspaper the sale of my house, and gave my name and address at full length. Did this look like concealment? You will consider any man innocent till his guilt is fully proved."

He was heard with the utmost silence and attention by the court and the jury, and he occasionally drew his eyes from the book and fixed them on the jury-box, as if to ascertain the impression he had made. Towards the close of his address his voice faltered, so as in particular passages to be nearly inaudible. His address, which was delivered between eleven and twelve o'clock, occupied the court about twenty-five minutes.

Some witnesses were called for the defence, who merely proved that the prisoner treated the deceased with kindness; that she was generally in very bad spirits; and that he was a humane man.

The lord chief-baron summed up the evidence: at twenty-five minutes to two the jury retired; and at ten minutes past two, they came back into court, and returned a verdict of *guilty*.

Corder was executed on the 11th of August. On the preceding evening, he made the following confession:

"Bury Jail, August 10, 1828.—Condemned Cell, Sunday evening, half-past eleven

"I acknowledge being guilty of the death of poor Maria Marten, by shooting her with a pistol. The particulars are as follows: When we left her father's house, we began quarrelling about the burial of the child, she apprehending that the place wherein it was deposited would be found out. The quarrel continued for about three-quarters of an hour upon this and about other subjects. A scuffle ensued, and, during the scuffle, and at the time I think that she had hold of me, I took the pistol from the side-pocket of my velveteen jacket and fired. She fell, and died in an instant. I never saw even a struggle. I was overwhelmed with agitation and dismay—the body fell near the front doors on the floor of the barn. A vast quantity of blood issued from the wound, and ran on to the floor and through the crevices. Having determined to bury the body in the barn (about two hours after she was dead), I went and borrowed the spade of Mrs. Stow; but, before I went there, I dragged the body from the barn into the chaff-house, and locked up the barn. I returned again to the barn and began to dig the hole; but the spade being a bad one, and the earth firm and hard, I was obliged to go home for a pick-axe and a better spade, with which I dug the hole, and then buried the body. I think I dragged the body by the handkerchief that was tied round her neck—it was dark when I finished covering up the body. I went the next day, and washed the blood from off the barn-floor. I declare to Almighty God, I had no sharp instrument about me, and that no other wound but the one made by the pistol was inflicted by me. I have been guilty of great idleness, and at times led a dissolute life, but I hope, through the mercy of God, to be forgiven. W. CORDER."

In the interval between the perpetration and the discovery of the murder, Corder had advertised for a wife. A woman of respectability, who kept a boarding-school near Ealing, answered the advertisement; and they were married. He was living with his wife and in her house, at the time when he was taken into custody.

Execution of Corder the Murderer.

This morning, William Corder, who had been convicted of the murder of Maria Marten, in circumstances of very peculiar atrocity, was executed at Bury. The girl had become the mother of an illegitimate child by him; he had appointed her to meet him at a particular place, that they might be married; when they met he murdered her, and buried the body in a barn. He remained unsuspected, and the fate of the young woman unknown, for nearly a year, when the mother of the latter dreamed repeatedly that her daughter lay buried in the barn in question; and a search being made, the body was found. No other cause was ever assigned for searching that particular spot, which led to the discovery. Before his execution, he acknowledged the murder.

WILLIAM CODLIN,

FOR SCUTTLING A SHIP, 1802.

Codlin was a native of Scarborough, and allowed to be an excellent seaman in the north coast trade. He was captain of the brig Adventure, nominally bound to Gibraltar and Leghorn; and was indicted for feloniously boring three holes in her bottom with a view to defraud the underwriters, on the 8th of August, 1802, off Brighton. Codlin and Read were charged, as officers of the ship, for committing the fact; and Macfarlane and Easterby, as owners, for procuring it to be committed.

The trial came on at the session-house, at the Old Bailey, Tuesday, Oct. 26th, 1802, before sir William Scott, lord Ellenborough, and baron Thompson. It commenced at nine o'clock in the morning, and did not conclude till twelve at night.

The first witness was T. Cooper, who said he was a seaman on board the Adventure, originally before the mast; was shipped in the river, the vessel then lying below Limehouse. Codlin was captain, and Douglas mate; the rest of the crew consisted of two boys, making in all five. Storrow was coming back and forward. There was a part of the cargo on board, and the vessel sailed from Limehouse for Yarmouth, where she took in twenty-two hogsheads of tobacco, some linen, and fifteen tons of ballast. From thence they proceeded to Deal, having taken on board at Yarmouth an additional hand, named Walsh, a bricklayer's labourer. At Deal, Douglas, the mate, complained of the rheumatism, and left them. Storrow went away, and was succeeded by Read. They took in another hand named Lacy.

The captain said, as witness was bringing him off shore, that witness should take Douglas's birth; but witness said he was not capable, not knowing navigation. The captain said, as long as he pleased him, that was plenty; they did not sail from Deal as soon as they might. The captain said at one time, he waited for letters; and at another, he waited for a wind. At length, they sailed, five or six days before the vessel went down. The captain gave strict orders to keep the boat free; witness put in four oars, cutting two of them to the length; formerly they threw lumber into the boat; but the captain ordered that there should be none there, and that there should be plenty of tholes, or pins, for the oars. The captain said they should not be in the ship forty-eight hours longer: this was Friday. On Saturday, he said that night should be the last; it was impossible she could carry them through the Bay of Biscay; he did not think her trust-worthy for his life, and why should witness for his? The captain then sent witness down to mix grog for himself and Read, and some of the crew. Witness was afterwards walking the quarter-deck; the captain was at the helm, and called witness to relieve him.

The captain went below; he came up in a quarter of an hour, and said to the witness, "Go down, and you will find an auger on the cabin-deck; take up the scuttle, and bore two or three holes in the run, as close down to the bottom as possible." The witness went down, and found the auger; it was a new one bought by the captain at Deal, and put into the handle of another auger; he bored three holes, close down in the run, with two augers and a spike gimblet, which he left in the holes. The witness came on deck, and told the captain he had bored the holes. The captain asked if the water was coming in? Witness said, not much, for he had left the augers in the holes. The captain said they might remain till daylight. On Sunday morning, the cabin-boy was prevented from coming down by the captain; before that, he always came down, and got breakfast in the cabin.

At daybreak, witness pulled out the augers, and the water came in; but the captain did not think it came in, in sufficient quantity, and wished for the mall to enlarge the holes. The witness said the crow-bar would do. The captain ordered him to bring the crow-bar, and make the holes larger; he did so; the captain was present all the time, and assisted to knock down the lockers, to make room. The crow-bar went through the bottom, and the witness believed, the augers did also. Mr. Read was in bed close by the holds: the distance might be about four yards. Mr. Read turned himself round several times while the witness was boring the holes; he never spoke, nor did the witness speak to him, but he turned in the bed several times; the auger did not make much noise. When the holes were bored, the witness called Read, by the captain's order; he came on deck, but shortly after he went down and went to bed again. The bed was on the larboard side of the cabin. Read could not see the augers, but he might hear the water run, as the cabin-boy heard it, and the witness heard it himself, a small hole being left open to keep the pumps at work. Read went to bed again, but he was on deck when the hole was beat with the crow-bar. Read was permitted to go down, but the boys were not. When the hole was beat through, the colours were hoisted; the boat was already out, and all hands in it, except the captain and witness. Witness packed up his things when he was told they could not be forty-eight hours in the vessel, but he mentioned the matter to nobody. He packed them in a bread-bag which he emptied on the deck. When the holes were boring, the captain ordered the men aloft, to take in sail; no one could possibly see or hear him, except witness, the captain, and Read.

They left the vessel at eight o'clock. Several boats came off on the signal. The people in them said, they (captain Codlin and his people) had met with a sad misfortune; they answered, yes. The boat asked if they wanted any assistance, and offered to tow them on shore. The captain said she was his while she swam, and they had no business with her. The Swallow revenue cutter then came up, and took the brig in tow, fastening a hawser to the mast: the brig, which lay on her beam-ends before, immediately righted, and went down. Witness has no doubt that she went down in consequence of the holes. Read's trunk had come on board at Deal; it was sent back the next day; witness helped it into the boat: it was full of line when it came, and was not locked; witness does not know what it contained when it went back. Captain Codlin and the whole crew went to the Ship tavern at Brighton. Read said to a lady who came to see him, that he had lost every thing belonging to him, and that he was ruined. Easterby and Macfarlane came to Brighton on Tuesday; they came to the Ship tavern. Easterby asked where the holes were, and of what size; there were some carpenter's tools on the floor, which had been brought from the vessel; Easterby asked if the holes were of the same size of the handle of the chisel that was among the tools; and being told they were, said, the witness should prepare the handle to plug the holes, in case the ship should come on shore, as she was then driving in. Macfarlane was in the room, but witness cannot say whether he could hear, as he spoke in a low voice. Easterby said Codlin was a d—d

fool, he had made a stupid job of it; he should have done the business on the French coast, and then he might have made the shore of either country in the boat, in such fine weather. Macfarlane discoursed with them, but witness did not hear what he said. Macfarlane and Easterby ordered the captain and witness to go to London together, and to take private lodgings, in which they should keep close, or they would be under sentence of death. Macfarlane took seats in the coach for them, and paid their passage. Read wrote on a piece of paper where witness was to go to in London, to Macfarlane's house. Witness received 9s. wages, and Macfarlane gave him a guinea; this was after he had described the size of the hole; he could not say whether the others were paid their wages. Witness came up with one of the bags, the captain being stopped by a gentleman (Mr. Douglas). The boy was put in his place at five or six in the morning. Read went with witness to the coach offices, Macfarlane came after, and Easterby came with the boy, who was apprentice to Storrow. Only one pump had been worked for a length of time in the ship, the other was not in order; there was a gear for the other, but the captain did not want to find it. The captain sent the boy down for the great-coat; the boy, on his return, said the water was running; the captain said it was no such thing, it was only the water in the run, and told the boy to go forward. He ordered witness to go down and see, but jogged him as he passed, and told him to say it was nothing. Witness, on coming up, said it was only the water in the run. Witness staid in London two nights, and then went to his mother, near Saxmundham, in Suffolk; having no money, and failing to get a ship after several applications, he walked the whole way, which is eighty-eight miles. When he arrived, his mother told him there had been people after him about a ship; and there had been hand-bills offering a reward. He immediately sent for the constable of the place, Mr. Askettle, and surrendered himself, to whom he told every thing, desiring him to take him to London.

John Morris, George Kennedy, Lacy, and James Welsh, corroborated Cooper's testimony. Storrow proved the intent of the voyage, that it was to defraud the underwriters. The insurances were also proved. Several witnesses gave Read and Macfarlane a good character.

As it appeared that Read took no active part in the business, and one of the witnesses having intimated that he was deaf, and the learned judge observing that it was possible he could not hear the conspirators talking, and the boring of the ship, &c. he was acquitted, and the rest found *Guilty*; but two points of law having been elucidated by Mr. Erskine, in favour of Easterby and Macfarlane, judgment was accordingly arrested, for the decision of the twelve judges. The prisoner heard the verdict with much firmness; Read, with composure; Easterby, apparently with indifference, looking around him; Macfarlane's features showed he was inwardly much affected, though he bore himself with firmness.

Sir William Scott then pronounced sentence of death on Codlin, in an impressive manner. Codlin then retired with a firm and undaunted deportment, taking a respectful leave of the court as he went out.

On Friday preceding his execution, Mrs. Codlin left town for Windsor, with a petition to the king, which, however, her husband had declared he did not conceive would be of service; yet, in spite of this declaration, he was in the fullest expectation of a respite until near twelve o'clock at night, when his hopes vanished. Previous to his execution, he freely communicated to Mr. Dring all the circumstances of his crime. At Brighton, he said, between five and six guineas were given him, and he was urged to go off, being assured that if he was taken he would be hung. On Saturday morning, November 27, 1802, he was brought out of the jail of Newgate to proceed to undergo his sentence at the docks at Wapping.

He was conducted from Newgate, by Ludgate-hill and St. Paul's, into Cheapside. A number of peace officers on horseback were at the head of the procession. Some officers belonging to the court of admiralty, with the city

marshals, followed next. The sheriffs were in a coach, as was also the ordinary of Newgate, the Rev. Dr. Ford. Codlin was in a cart, with a rope fastened round his neck and shoulders. He sat between the executioner and his assistant. As he passed down Cheapside, Cornhill, and Leadenhall-street, and onward through Aldgate and Ratcliffe highway, he continued to read the accustomed prayers with great devotion, in which he was joined by those who sat with him in the cart. As the procession drew near to the scene of execution, the difficulties of the passage grew continually greater, so that it was hardly possible for the peace officers to clear the way. At the entrance towards the dock, it became necessary that the criminal should be moved out of the cart, to walk to the scaffold, which was yet at some distance. After coming down, he stood as erect as the confinement of his arms and shoulders would allow. His looks still wore an air of unchanged firmness. He walked on with a steady step, and was even observed to choose the least dirty paths. He ascended the ladder to the scaffold without betraying any emotions of terror. His body, after hanging for the due length of time, was cut down, and carried away in a boat by his friends.

JOSEPH WALL, ESQ.

FOR MURDER, 1802.

Joseph Wall was indicted for having, on the 10th of July, 1782, caused certain persons, with a piece of rope, to beat, penetrate, and wound, one Benjamin Armstrong, in several parts of his body, at Goree; of which wounds he languished, and languishing, did live until the 15th of that month, and then died; and that he, the said Joseph Wall, was present, aiding, abetting, helping, assisting, comforting, and maintaining the said persons so to wound the said Benjamin Armstrong, whereby he, the said Joseph Wall, the said Benjamin Armstrong did kill and murder.

He was charged with two other indictments precisely of the same nature as the former; the one charging him with the murder of Thomas Upton: the other, of George Paterson; to all of which governor Wall pleaded not guilty.

At the commencement of the trial, the prisoner said he was rather deaf, and therefore requested that he might be allowed to come nearer. The lord chief baron said to the prisoner, "That is perfectly impossible; there is a regular place appointed by law for persons in your situation; we can make no distinctions of the sort you desire, that would be invidious; but we will afford you all possible assistance, by requesting the witnesses to speak loudly."

The attorney-general opened the case on the part of the prosecution.

The crime imputed to the prisoner at the bar is murder. He stands charged, on the present indictment, with the murder of Benjamin Armstrong, a sergeant in the garrison of Goree, when the prisoner was the commandant and governor of that island, in the month of July, 1782. That murder is charged to have been committed by the prisoner, in the punishment which he ordered to be inflicted on that person; and the circumstances which led to that punishment, which was the cause of that man's death, will be for me to open to you, and then it will be for you to decide.

Mr. Wall was governor and commandant of the garrison at Goree, which you know is an island on the coast of Africa. He had at that time under him an officer of the name of Lacey; likewise, a lieutenant of the name of Fall; another of the name of Ford; another of the name of Phipps; and another of the name of O'Shanly; but no other military officer whose name is necessary to be mentioned. The circumstances of this case arose in the year 1782; the exact time is the 10th of July in 1782, when the death was occa-

sioned which is charged upon the prisoner as murder. The day following, the prisoner left his station at Goree as governor, and came off for England. He arrived here in August in that year. He was apprehended for this offence in March, 1784, under a warrant issued by order of the privy council. You will bear in mind, that most of those persons who were material witnesses to prove his innocence, if innocent he be, were then living, and within the reach of the process of the criminal justice of this country, and might have been brought forward for the vindication of the prisoner's innocence. In July, 1782, this gentleman had this garrison under his command, with those officers I have mentioned, and one hundred and forty or one hundred and fifty men also under his command, as they had been, for some time prior to the period at which he announced his intended departure, and which actually took place on the 11th of July, 1782. Some time previous to this, the garrison had been under short allowance of provisions, from necessity I will suppose, or from some fair reason, although that is not stated to me; but I will take it to be so, since the contrary does not appear. The men were put under short allowance, that is, to a restriction of food for the convenience of the garrison, and for continuing it in safety until farther supplies should arrive. In such cases, the men who are put upon short allowance are allowed a compensation in point of pay to the amount of the stoppage of their provisions. The gentleman now at the bar had announced his departure for the 11th of July; there was going away with him, for England, a person of the name of Dearing, who was the paymaster of the garrison. In the hands of that person was, of course, the power, either to allow the men the money, or in future what was equivalent to money, some articles of barter, which would procure for them what they wanted. When this paymaster was about to depart, these men were anxious that this account might be settled, and, as the period of departure drew nigh, several of them resorted to the house where the paymaster lived, for the purpose of obtaining payment of what was due to them on account of the short allowance to which they had been restricted; and here the case begins to unfold the disposition of the prisoner at the bar. What reason he had for mixing himself in considerations of this short allowance, and to interpose himself between those persons who call for an adjustment of their claims, and the person whose regular business it was to settle them, I am not apprized of, or, at least I will not take upon me to allege. The men resorted to the house of this paymaster, for they were desirous of obtaining what was due to them before the paymaster left the island, which was to be the next day. They were aware that a vast ocean would separate the paymaster and them in a short time; and, considering the precariousness of human life, they thought it possible they might not afterwards be in a situation to urge their claims with beneficial effect to themselves. On their coming towards the paymaster's house for this purpose, in considerable numbers, as you will have in evidence before you, and as they were passing the door of the governor, which was in their way, he reprimanded them, in anger, for resorting to the house of the paymaster; and under terror of punishment, ordered them to go away. The men retired dutifully under that admonition. In about an hour and a half afterwards, several persons, whether the same as the former I do not know, but several persons, among whom was Armstrong, made a second application, or rather an intended application, to the paymaster. These men were proceeding towards the house of the paymaster. Armstrong appeared with these men. Governor Wall, the prisoner now before you, came out to meet them again. I do not know that he used the language of menace to them as before; however, that will come before you in the evidence of the orderly sergeant, who attended the person of the governor, and who was of course obedient to his commands. He will state to you, that Armstrong was so far from being undutiful in his behaviour, that he took off his hat and paid all possible respect to the governor, and said they only came to make a representation to the paymaster,

and respecfully retired; and from that period, if there be any truth in the evidence that I am to lay before you, until the hour in which the punishment of Armstrong was inflicted, which took place in the course of that day, and which led to his death in a few days, every thing in the conduct of the governor was furious and full of malice.

This application, which was intended to have been made to the paymaster, was in the morning. There was an interval between that and the time of inflicting the punishment which ended in the death about which you are now to inquire, respecting which it will be incumbent on the prisoner to give you an account why the garrison was not in tranquillity, or, if it was not, why an investigation did not take place into the matter. Upon that there is an entire silence. We hear nothing of the defendant until the evening, that is, until about six o'clock, when the drum was beat what they call "a long roll," to call the soldiers on the parade, which had the effect of bringing them all, as they were, some in their jackets, without any military preparation whatever, or any regard to their appearance. At this time there appeared on the parade, captain Lacy, lieutenant Fall, ensign Ford, and Mr. O'Shanly, four officers; and after some conversation had taken place between the officers, there being on the parade a gun-carriage, and a person attending to perform the offices of tying, flogging, &c., a circle being formed, within which the officers were, Armstrong, all this time being among the men who had formed the circle, was then called out and ordered to strip, which he did. He was then tied to the gun-carriage; black men, brought there for the purpose, not the drummers, who in the ordinary course of things would have had to flog this man, supposing him to have deserved flogging; but *black men* were ordered to inflict on Armstrong the punishment ordered. Each took his turn, and gave this unhappy sufferer twenty-five lashes, until he had received the number of eight hundred. Punishments of this sort, I understand, are usually inflicted by drummers; but this was inflicted by black men, who did not belong to the regiment, and the instrument with which the punishment was inflicted was not a cat-o'-nine-tails, which is the usual instrument, but piece of rope of a greater thickness, and which was much more severe than the cat-o'-nine-tails. The rope will be exhibited to you in evidence, and therefore I need not say any thing to you of its fitness or unfitness for this purpose. It will appear to you also, that while this punishment was inflicting, the prisoner urged these black men to be severe, in a language, some of which I shall not repeat, as it will be enough for you to hear it once from the witnesses. I shall pass by the coarseness of it; but he said, among other things, "Cut him to the heart, and to the liver." Armstrong, the subject of this punishment, applied to him for mercy; but the observation of the defendant, on that occasion, was, "That the sick season was coming on, which, together with the punishment, would do for him." After receiving a great number of lashes, that is, eight hundred, this poor creature was conducted to the hospital. He was in a situation in which it was probable his death might be the consequence, and, therefore, you will see the declaration he made, which the law admits in evidence; because the declaration of a man, made under an apprehended pending dissolution, is, by the law of this realm, consisidered tantamount to an oath. You will hear that he declared he was punished without any trial, and without ever being so much as asked, whether he had any thing to say in his defence; and this evidence, if made under the impression I have stated, will undoubtedly be competent evidence to be laid before you.

After this punishment had been inflicted upon this poor man (for I will not travel into the circumstances of the case of any other person whomsoever, but confine myself to that for which the prisoner now stands before you), the governor and the paymaster set off the next day for England, and they arrived here in the month of August following.—

Here the attorney-general went over the circumstance of the prisoner escaping from the hands of the king's messenger at an inn at Reading, in

their way up from Bath, where he was apprehended by virtue of a warrant from the secretary of state, in the year 1784; and of the proclamation which was issued afterwards, describing his person, stating that he had fled from justice, and offering a reward of £200 for apprehending him. He also noticed the letters which he sent in the previous October to lord Pelham, stating his readiness to take his trial.

Evan Lewis examined.

Upon seeing the men returning, I told the governor they were coming, before they reached the house, on which the governor came to the outside of the gate to meet them. When they came opposite the gate, he called out to one of them (Benjamin Armstrong), who was a sergeant; the governor asked him what he wanted, saying, "What do you want?" Armstrong said to him, "Your excellency, we were going to the commissary, to ask him to settle with us before he goes to England." Armstrong came up with his hat in his hand, as usual, with submission, and said to him, "Your excellency, we are going to the commissary." He was about four yards from the governor, and I was near enough to hear what passed; but I do not remember all that passed; I cannot swear that I do; but as far as I do recollect, I have stated. The governor told them to go to the barracks, and threatened them; then they went. The governor went to the men, and the men remained where they were. Armstrong came to the governor after he called him. I do not know what passed between the governor and the men, for the men turned their backs and walked off and appeared to be frightened. I do not recollect that there was any parley between them, but they appeared immediately to go off. I did not hear any noise or disturbance among them; they did no harm that I could see. They were not in their uniform; some of them were in blue jackets, but others were in plain dresses. I did not hear any thing pass, except between Armstrong and the governor. I did not hear any disrespectful language used. I should suppose that the second appearance of the men was between eleven and twelve, for it was before dinner hour, which, with the governor, was, I believe, at two. As to the men, they dined when they could. In the course of the afternoon, after the governor's dinner, the officers went away earlier than usual; the governor went out, and I followed him. We conceived there was something due for short allowance, for we had been on short allowance, at different times, for some time; but how much I do not know.

On that day, two or three of the officers dined with the governor; and, when he went out, I followed him. The governor walked down towards the main guard near the parade. The guard turned out to salute the governor as he passed, as usual. The governor went upon the ramparts, where there were two field-pieces (six-pounders), and I stood at the end of the ramparts; the governor ran by me towards the main-guard, and began to beat one of the guard who was then under arms; I believe the man was in liquor; he beat him for some time, then drew his sword, and took a bayonet from the sentry, and beat him with that, and confined both the sentry and the guard. He then ordered the drums to beat the long roll, which is to call the men on the parade. I was sent, if I recollect rightly, by the governor to call the men together as they were, that is, without arms; they obeyed directly, and came without arms, as they were, for this was sooner than parade time. Captain Lacy, I believe, was there, but what non-commissioned officers, I do not remember. The usual time of roll-call was, I believe, a little before sunset, but I do not recollect exactly. This was before that time, half an hour or nearly so. When they came on the parade, they were ordered to form a circle: I do not know whether by the governor's orders, or by those of one of the officers, but governor Wall was there. Captain Lacy was there; four officers were there; I believe Mr. Ford, lieutenant Fall, and Mr. O'Shanley, were there at the conclusion; but I do not know whether they were there at

the beginning. They were all inside the ring; the circle was small, for there were not above three hundred men, and they were formed two deep: I was close to the circle on the outside. The governor was in the inside of the circle. I heard some words pass, but cannot say what they were; I could see every thing very well, as I leaned my head between the men. There was within the circle a carriage of a six-pounder; it was brought in just as the circle was formed. I cannot recollect who brought it. I heard the governor speak to the officers; what was said, I do not recollect, but I heard the governor call Benjamin Armstrong out of the ranks. Armstrong was at that time in his proper place, among the rest of the men.

He came out, and was tied to the carriage of the cannon. Governor Wall ordered him to strip. He was tied up to the gun-carriage. He was then flogged by a black man, by order of governor Wall. There were five or six persons employed in flogging him. They changed hands as the drummers usually do; I cannot tell how often, but, as well as I can recollect, they gave each twenty-five lashes. I do not recollect how many lashes he received, but certainly several, inflicted with a rope; I cannot tell the size of it. These blacks were no part of the regiment; I never saw anybody before nor since flogged in that way. Governor Wall was in the circle, urging these black men to do their duty, and threatening them, if they did not. I heard him call to the blacks, "Lay on him, you b——, or else I will lay on you." I heard him say several times, "Cut him to the heart, cut him to the liver." I believe Armstrong begged for mercy, but I do not exactly remember the words. What I have said took place during the punishment of Armstrong; he was afterwards taken to the hospital, I believe. At this time, I did not see the least appearance of mutiny among the soldiers, nor any mutiny or disturbance between the time of the men passing the governor's house and the commissary's, and the punishment of Armstrong. I was at the barracks in the course of the day, when I heard them say, that they were to go up to the house of the commissary. They said they were advised by lieutenant Fall to go to the commissary, and to ask for their allowance before he went away. I cannot say that I ever saw Armstrong afterwards, either dead or alive. I heard that two or three days afterwards he died. There was no court-martial held on Armstrong, that I know of; I did not see any. I was near enough to see and hear and observe it, if it had been held. I have seen a drum-head court-martial at Chatham, but I do not recollect how that was; but it is usual to call on a man to answer a charge before he is punished. I saw the governor conversing with the officers for a moment. Armstrong was at this time in the ranks among the rest of the men; and the whole of this conversation passed before he was called out of the ranks. I did not hear any sentence passed on him, nor do I believe there was any. I heard some words; I heard him called out, and heard him ordered to strip. I did not hear what it was for. The first words addressed to him were to call him out of the ranks, and then he was ordered to strip. Governor Wall went away the next day, but I do not know how many officers went with him.

Roger Moore examined.—I was a private in the garrison in 1782, at Goree; was present on the 10th of July; the troops paraded between four and five o'clock. The governor ordered lieutenant Fall to form a circle after the parade was over. The officers, consisting of the governor, captain Lacy, lieutenant Fall, and lieutenant O'Shanley, had a conversation for some little time within the circle. I was not near enough to hear; the officers spoke gently. Armstrong was not seen speaking to the officers, nor they to him: he was to the right of the company of sergeants. Governor Wall called Armstrong out of the ranks, and represented him as the ringleader of the mutiny. Armstrong, who made some reply, and spoke to the officers, was close to the governor. In a short time the limbers of a six-pounder were brought into the circle. Armstrong was tied up by the governor's orders, having been stripped. One of the mulatto men, who was interpreter to the garrison,

received orders to instruct the blacks what they were to do, and which way they were to inflict the punishment. I think there were about three or four of them. He was punished with a rope; it appeared, at a distance, about an inch in diameter. There were no knots. He received eight hundred lashes; I counted them; they changed regularly during the punishment, like the drummers of the regiment, each giving twenty-five strokes. Armstrong died in the space of four or five days. I saw him carried to be buried. I saw no mutiny, except being dissatisfied, not having received money for short allowance; and, talking with each other, they observed that the governor and the commissary were going off the island, and if they did not get a settlement before they went, they never should. They had been on short allowance for some months. Armstrong said that he had been with the governor, who promised to settle every thing; the men seemed in good spirits, and were quiet after this public declaration, and the parade was regularly formed. Armstrong, during the flogging, asked forgiveness, and said he would never be guilty of the like again. The governor told him that he hoped it would be a warning to him. If the manner of forming the circle was to be called a court-martial, I never saw one like it before or since. He was charged as a ringleader of the mutiny, afterwards he was called out, and tied up in a few minutes. There never has been a settlement of the short allowance money. I do not know what is become of the officers.

Others deposed to the same effect.

Mr. Ferrick examined.—I was surgeon to the garrison of Goree, in 1782. I recollect what passed on the 10th of July. My quarters were near the governor's house. I saw the governor on the evening parade. I was sent for about one hour before sunset; there were present the governor, captain Lacy, lieutenants Fall and O'Shanley, and ensign Ford. Armstrong was being flogged when I entered the circle. When I came in, the governor said, this d——d infamous scoundrel, I am going to punish him. The negroes were punishing him with a rope's end. I looked on. I understood he received eight hundred lashes. Nothing passed between the governor and me. The punishment appeared rather severe; but I do not recollect that it was worse than the usual punishment, or that his cries were louder. I attended him afterwards, from day to day, at the hospital; he lived till the 15th: I have uniformly concluded, that the punishment was the cause of his death; I did not make any observation to governor Wall on the state of the punishment. (The witness was asked some questions as to his reason for not doing so, when Mr. Knowles objected to the question. The court, after a short consultation, ruled, that the witness was not bound to give any answer founded on his own opinions.)

Witness proceeded. There was not the smallest appearance of disorder or mutiny on that day.

Lord chief-baron.—Was there, in your opinion, any chance of his death from the flogging?

Witness.—My present opinion is, that there was a great chance of his dying. Captain Lacy, lieutenants Fall and O'Shanley, and ensign Ford, are dead; I do not know whether Mr. Dearing is dead. The instrument with which Armstrong was punished does more mischief, because it bruises, and does not cut like the stripes of a cat. I did not know it at that time. His back exhibited evident marks of bruises, but was very little cut; he passed blood both ways, and was asthmatic in the lungs.

Lord chief-baron.—How long had you been in the practice at that time?—A. Two or three years.

The witnesses were then called for the defence.

The first witness called on the part of the prisoner, was Mrs. Lacy, who stated that she was the widow of captain Lacy, so frequently mentioned in the former part of the proceedings.

She was in the government house, at Goree, on the 10th of July, 1782,

when several soldiers came there to claim the payment of what was due to them for the short allowance they were placed on, while Mr. Adams was the governor. The first time they came, was about nine or ten in the morning; in number, they might have amounted to seventy or eighty men. They stopped opposite the government house, and were headed by sergeant Armstrong. He addressed the prisoner, governor Wall, and swore that if he did not comply with their demand, they would break open the stores, and satisfy themselves. They came again some time afterwards, and from their manner she could not consider them to be sober. The governor next went to them, and Armstrong swore, that if their request was not complied with, the stores should be broke open. The governor requested to have a few hours to consider of it, and desired them, at the same time, to return to their barracks. They then went away shouting and making a great noise. They said the governor should not leave the island till they were satisfied; and Armstrong, as well as two others, of the names of Upton and Paterson, spoke in so threatening and alarming a manner, as to make her apprehensive of great danger. It was a quarter of an hour before the governor could persuade them to depart; after which he sent for the officers off duty (of whom her late husband was one, and lieutenant Fall and O'Shanley the others), whom he acquainted with the mutiny going forward. It was agreed amongst them, at that meeting, that they should not confine all the offenders at once, but take them separately, and try the ringleaders by a court-martial. The governor then sent to Spurly, the drum-major, desiring him to be prepared for executing whatever the court might determine; and, on the return of that officer, he reported that all the cats-o'-nine-tails were destroyed in the morning, and that the governor, for his own safety, should immediately embark, as the men were resolved not to submit to any of them being punished. Lieutenant O'Shanley proposed that they should be punished by the linguist and his people, as the regular drummers were engaged in the mutiny. The governor ordered the court-martial to prepare, and Lacy to have every thing ready to hold it on the parade. The linguist was sent for, and came to the government house with the officers, Lacy, Fall, and O'Shanley.

Peter Williams was a non-commissioned officer at Goree, and recollected the day before governor Wall embarked on his return to this country. About eleven o'clock on that day, he saw nearly a dozen men parading before the governor's house, and demanding to be paid their short allowance money. Kearney was then the orderly-sergeant upon duty. The governor refused to comply, and ordered them to return to the barracks. They did so, but returned in the evening, more numerous than before, and led on by sergeant Armstrong, Paterson, and Upton. They were very forward in insisting on the governor's compliance, and were seconded zealously by two drummers of the African corps. Armstrong said he would be d——d if he should quit the island till the people were satisfied; and the party went away in a clamorous, noisy, and disorderly manner. They came three times on the same day, and conducted themselves with equal irregularity. He heard the three parties, Armstrong, Paterson, and Upton, say, they would be d——d if they would not break open the stores. This was distinctly stated by each of them. He was present when the circle was formed on the parade, in the usual military form. The governor was outside of the ring, and three or four officers were in it, holding a court-martial upon the deceased, for mutiny. Orders to that effect were given them by the governor; but he did not hear them say any thing to the deceased. After they had came to a decision, captain Lacy left the circle to report their proceedings to the governor, upon which the latter communicated to Armstrong, that the court had sentenced him to receive eight hundred lashes with a rope's end. He believed the whole of the punishment was inflicted, after which Armstrong walked, unsupported, to the hospital, with his shirt thrown over his shoulders.

General Forbes had known Mr. Wall between thirty and forty years; they

had served together at Havannah. After that he had not an opportunity of seeing him till the year 1786, when he met him in Paris. With respect to his character, he always knew him to behave as became an officer and a gentleman, in every respect, and with the most perfect correctness.

General Mackenzie stated, that he had known governor Wall from the year 1763 to 1770; that he had served with him, and always regarded him as a man of great humanity and good temper.

The rev. Mr. Clark stated, that he knew Mr. Wall at Pisa and at Florence, in the years 1795 and 1799; that he seemed to him to be a most tender and affectionate husband and father; and, from every part of his conduct that came under his (Mr. Clark's) observation, he considered him as a man of distinguished humanity.

The jury retired for about three-quarters of an hour, and, at their return into court, the foreman, who appeared to be affected, pronounced in a low and faltering voice, their verdict of—*Guilty*.

The recorder, in addressing him, said, he had been most ably defended by gentlemen of abilities and experience, but religion and law hold it sacred, that he who sheds the blood of man, by men shall his blood be shed. He then proceeded to pass the fatal sentence of the law, which was in substance —That he, Joseph Wall, be taken to the place from whence he came, and from thence to a place of execution, there to be hanged by the neck until he be dead, and his body afterwards given to be anatomized and dissected, according to the statute in that case made and provided.—"Prisoner, the Lord have mercy on your soul."

Wall was six feet four inches high, of genteel appearance, and sixty-five years of age. He was afterwards executed at the Old Bailey, amid the plaudits of the populace, who considered his execution as the triumph of law over abused power.

VICE-ADMIRAL BYNG.

AT A COURT-MARTIAL, HELD ON BOARD HIS MAJESTY'S SHIP THE ST. GEORGE, IN PORTSMOUTH HARBOUR, 1757.

On Tuesday, the 28th of December, Admiral Byng was brought to the bar by the marshal, and the commission, with all the articles of accusation exhibited against him, were read.

On Wednesday the 29th, rear-admiral West was sworn and examined.

Court. What distance do you imagine the Ramillies might be from the Buckingham at the time of the engagement with the French fleet?—*Admiral West.* I believe about three miles.

Court. Do you think the admiral and the rear could have come up to the assistance of the van, and come to as close an engagement with the enemy? —*Admiral West.* I knew of no impediment to the contrary; but I cannot presume to say there was no impediment; nor I would not be understood to mean there was none.

Court. How was the wind and weather?—*Admiral West.* The wind was very calm, and the weather exceeding fine.

Court. Could you keep your lower ports open?—*Admiral West.* Yes, I could; and I knew of but one ship that could not, and that was the Deptford, who lowered her ports occasionally.

Court. Did you see any fire from admiral Byng's ship during the engagement?—*Admiral West.* When I was looking towards the Intrepid, which was in distress astern of her, I saw some smoke, which might very probably be from the admiral's ship, or some of his division; but I was not able to discover at what ship it was directed.

Admiral Byng. Was it not in the power of the enemy to decline coming to a close engagement, as the two fleets were situated?—*Admiral West.* Yes, it was; but, as they lay to our fleet, I apprehended they intended to fight.

Admiral Byng. Are you of opinion that the forces on board the fleet could have relieved Minorca?—*Admiral West.* I believe they could not.

Admiral Byng. Were not some of the ships deficient in their complement of men?—*Admiral West.* Yes.

Admiral Byng. Were not some of the ships out of repair?—*Admiral West.* Yes.

Admiral Byng. Was not the fleet deficient, in point of force, with the enemy? -*Admiral West.* Yes.

Lord Blakeney was sworn.

Admiral Byng to lord Blakeney. Do you think the forces could have been landed?—*Lord Blakeney.* Yes; I think they might very easily be landed.

Admiral Byng. Was there not some fascines thrown in the way?—*Lord Blakeney.* Yes; but they were such as I think might easily have been destroyed.

Court. If the admiral had attempted to land the men, would it not have been attended with danger?—*Lord Blakeney.* Danger! most certainly. It could not be so easy as stepping into this ship. I have been upwards of fifty years in the service, and I never knew any expedition of consequence carried into execution but what was attended with some danger; but of all the expeditions I ever knew, this was certainly the worst.

Admiral Byng. Had not the French a castle at the point, which might have prevented the landing of the troops?—*Lord Blakeney.* Not on the 20th of May; and the enemy were then in such distress for ammunition that they fired stones at the garrison.

Admiral Byng. Do you think that the officers and few men I had on board the fleet could have been of any great service to the garrison?—*Lord Blakeney.* Yes, certainly, of great service; for I was obliged, at that time, to set a great number of my men to plaster the breaches.

Captain Everitt examined.

Court. What time did you see or discern the island of Minorca?—*Captain Everitt.* We got sight of the island of Minorca about six o'clock in the morning of the 19th of May.

Court. What was your nearest distance from St. Philip's castle?—*Captain Everitt.* About eleven or twelve o'clock in the forenoon of the 19th of May, we were about two leagues distant from St. Philip's castle; and I believe that was the nearest distance I was to it.

Court. What time was the French fleet first discovered?—*Captain Everitt.* About two or three in the afternoon of the same day (the 19th of May), the French fleet was seen distinctly, standing to the westward; but I cannot pretend to say at what distance.

Court. How did the British fleet stand at that time?—*Captain Everitt.* To the S. E. the wind at S. S. W. moderate fine weather.

Court. What time did you see the French fleet preparing for engagement?—*Captain Everitt.* On the 20th of May, about eight or nine o'clock in the morning.

Court. At what distance was the Ramillies from the Buckingham at the time of the engagement?—*Captain Everitt.* I believe about three or four miles.

Court. Could the admiral and the rear come up to the assistance of the van, and come to as close an engagement with the enemy?—*Captain Everitt.* I am of the opinion that the admiral's division might have carried all their sail, and thereby assisted the van, and prevented them from receiving so much fire from the rear of the enemy.

Saturday the first of January, the court being sitting, lord Blakeney ap-

peared in consequence of admiral Byng's request, about nine o'clock in the morning, when the admiral proposed the following question:—

Admiral Byng to lord Blakeney. If I had landed the troops, do you think it could have saved St. Philip's from falling into the hands of the enemy?—*Lord Blakeney.* It is impossible for me to pretend to answer that question with any certainty; but really, I am of opinion, that if they had been landed, it would have enabled me to hold out the siege till sir Edward Hawke had come to my relief.

Then the four first lieutenants of the Buckingham, admiral West's own ship, were examined, and they all agreed that they did not know of any impediment to hinder the admiral and his division from coming to the assistance of the van, which was closely engaged and raked by the enemy's rear as they came up, and that they did not see the admiral go to a close engagement with the enemy, agreeable to his own signals.

MONDAY, THE 3D OF JANUARY.

Captain Everitt was cross-examined.

Court. If admiral Byng had come to a close engagement, do you think a complete victory might have been obtained?—*Captain Everitt.* Why, really, I think there was all the reason in the world to expect it, it being very well known that admiral West beat off two of the enemy's ships, though he had but five ships to their six, and their metal much heavier.

Court. How was the wind?—*Captain Everitt.* An exceeding fair gale.

Court. Had you too much or too little?—*Captain Everitt.* Neither: just enough, and no more.

Captain Gilchrist was sworn.

Court. Did every ship bear down at a proper distance to attack the enemy?—*Captain Gilchrist.* No; not according to signals thrown out for that purpose by the admiral, between twelve and one o'clock; but the rear-admiral and his division bore down right before the wind, and hauled up opposite their proper ships, and attacked the enemy; except the Defiance, which appeared to be rather too much ahead. The ships in the rear were in a line of battle ahead; upon which the Defiance threw all aback, and fell down upon her proper ship, the headmost ship of the enemy.

Court. Did the admiral bear down before the wind upon the enemy?—*Captain Gilchrist.* No; nor any of his division.

Court. Did the ships in the rear make all the sail they could in order to close with the enemy, from the time the signal was given for battle till the action was over?—*Captain Gilchrist.* No; but in the latter part of the action admiral Byng set all his sail, except the top-gallant sails.

Court. Would the wind and weather permit him to carry all the sail in the ship that he commanded?—*Captain Gilchrist.* The wind was such that I could have carried all the sail in the ship that I commanded; and I don't know any reason why he could not do the same.

Captain Amherst was sworn.

Court. Could the admiral and the rear have come up to the assistance of the van, and come to as close an engagement with the enemy?—*Captain Amherst.* I do not know any reason why he could not.

Court. As the two fleets were situated, do you think it was in the power of the enemy to decline coming to a close engagement?—*Captain Amherst.* Yes; I believe it was; but, as they lay to our fleet, I imagined they intended to come to an engagement.

Court. How did the admiral behave during the engagement?—*Captain Amherst.* I cannot pretend to speak positively as to the admiral's conduct during the engagement.

Captain Young was examined.

Court. Were any of the ships in our rear in danger of being on board you,

occasioned by the loss of your foretop-mast?—*Captain Young.* Not as I could perceive.

Court. Do you think it occasioned any impediment to admiral Byng and his division from going down to engage the enemy closely?—*Captain Young.* I could not perceive it did.

Court. Did the admiral, and his division, bear down on your stern, and go to the centre and rear of the enemy?—*Captain Young.* No, they did not; when my top-mast went away.

Court. Did they afterwards at any time?—*Captain Young.* Yes, they did about an hour after, and went to leeward of me, and passed me.

Court. Did they go down to the centre and rear to engage properly?—*Captain Young.* The French were then gone, and left me astern.

Court. When the French fleet passed you, what sail had they?—*Captain Young.* To the best of my remembrance, they had their top-sails and fore-sails.

Court. What sail had the admiral and his division abroad then?—*Captain Young.* Fore-sails and stay-sails.

Court. What sail had the Culloden?—*Captain Young.* Her top-gallant sails.

Court. How long was it after you had lost your topmast before the admiral and his division passed to leeward of you?—*Captain Young.* I believe it might be about three quarters of an hour, or an hour.

Court. Could the admiral and his division, as the wind was then, if they had set all their sails, from the time the signal for engaging was made, and bore away properly; could they have come to a close engagement with the enemy?—*Captain Young.* Yes, they certainly could; the French were laying to for us. I went down only under my top-sails, and I don't know why they could not have added sails in proportion to the distance and going of their ships.

Court. Did you observe what sail the admiral and his division were under during the three quarters of an hour, or an hour which you just now mentioned?—*Captain Young.* No, I did not take any particular notice.

Court. Did you observe that they made any motions for going down to the enemy?—*Captain Young.* No, I did not.

Court. Before the French ran did you see the admiral and his division closely engaged with the enemy?—*Captain Young.* No, I did not, they were astern and to windward of me.

Court. Did the admiral and his division bear down to the enemy when you did?—*Captain Young.* No.

Court. What sail were the admiral and his division under at that time?—*Captain Young.* Under their top-sails and fore-sails.

Court. Could the admiral and his division have closed the enemy, to have engaged properly, if they had borne down as the Intrepid did?—*Captain Young.* Yes; for the French were laying to.

Court. Supposing the admiral and his division had set all their sail, did they lay to long enough to admit of it?—*Captain Young.* Yes, they lay to long enough for me, and I suppose for the rest too.

Court. When the signal for engaging was made, were our ships in a proper line of battle, ahead of one another?—*Captain Young.* Yes; there was a very good line of battle.

Court. Had all our ships bore away at the same time, would it not have prevented the running aboard each other?—*Captain Young.* They were not so near together, but every ship had room enough to wear.

THE 10TH OF JANUARY.

Captain Cornwal was examined.

"I went," said he, "to my window abaft, to take a view of the fleet when in the line of battle, and was extremely surprised to see the admiral and his

division at so great a distance upon the weather quarter, and seeing the Intrepid in great distress, and no signal given for removing her out of the line, I went to her assistance, and, after getting her out of the line, fell into her station, and engaged the Foudroyant, the French admiral, being the ship which I imagined fell to my lot in the then line of battle."

He also said, he knew of no impediment to prevent the admiral's engaging at a proper distance, any more than the rest of the fleet.

TUESDAY, THE 11TH OF JANUARY.

Captain Gardiner, of the Ramillies, the admiral's ship, was examined.

Court. Were all the sails of the Ramillies set?—*Captain Gardiner.* No, they were not.

Court. If the Ramillies and the admiral's division had carried all their sail, do you think they could have assisted the van, and have prevented them from receiving so much fire from the enemy's rear?—*Captain Gardiner.* I do not believe they might.

Court. Did you advise the admiral to bear down?—*Captain Gardiner.* I did, but the admiral objected to it, lest an accident of a similar nature with that of admiral Matthews on the same seas, should be the consequence.

Court. Did the admiral show any signs of fear or cowardice?—*Captain Gardiner.* No, quite the reverse.

Court. Have you any thing to allege against the admiral's personal behaviour?—*Captain Gardiner.* No, I have not.

WEDNESDAY, THE 12TH OF JANUARY.

Lord Robert Bertie was sworn and examined.

Court. Where was you stationed?—*Lord Bertie.* Upon the quarter deck with the admiral.

Court. If the officers and recruits that were intended for Minorca had been landed, do you think they would have saved fort St. Philip's?—*Lord Bertie.* No, I think they were of greater service on board the fleet.

Court. Was you on the quarter deck with the admiral in the engagement?—*Lord Bertie.* Yes; but upon informing the admiral that I discovered one of our own ships through the smoke upon the lee-bow of the Ramillies, and which ship I was apprehensive the Ramillies would fire into without seeing her, I was detached by the admiral between decks to stop firing.

Court. Did you discover any signs of fear or confusion in the admiral?—*Lord Bertie.* No, far from it; he expressed an impatience to engage the enemy.

Court. How near were you to the enemy at the time of the engagement?—*Lord Bertie.* We were so near the enemy as to be hulled by them, and many of the enemy's shots passed over us.

Court. Did you ever hear any murmurings, or complainings, by any of the officers or men on board, upon a supposition that the admiral had not done his duty?—*Lord Bertie.* No; I never heard any thing like it.

Lord Robert Bertie's examination being finished, colonel Smith, who was also upon the quarter deck with the admiral, was examined next, who confirmed what lord Bertie had said, in every particular; and he also added, that a shot from the enemy passed between him and lord Robert Bertie, as they were abaft the main-mast, which took off the head of a timber upon the deck; and went through the hammocks in the main shrouds.

MONDAY, THE 17TH OF JANUARY.

Captain H. Ward, of the Culloden, was examined; who declared that the shot fell short of him, being to leeward of the admiral, and gave it as his opinion that had the admiral bore down they might have taken every ship of the enemy. After him several of his lieutenants were examined, who all deposed to the very same purpose.

All the witnesses being examined, admiral Byng was called upon to make his defence, which he did in the words, or to the substance following:—

"Gentlemen,—The articles of the charge exhibited against me are of such a nature, that every thing which can be supposed interesting to a man is concerned in the event of this cause. My character, my property, and even my life are at stake; and I should indeed, have great reason to be alarmed, were not I conscious of my innocence, and fully persuaded of the justice and equity of the court.

"On the 17th of May I was joined by his majesty's ship the Phœnix, off Majorca, and got off Mahon the 19th. The Phœnix confirmed the intelligence I received before at Gibraltar, of the strength of the French fleet, and of their being at Mahon. The British colours were still flying at the castle of St. Philip's, and several bomb batteries playing upon it from different parts: on the west part of St. Philip's we saw French colours flying. I despatched the Phœnix, Chesterfield, and Dolphin ahead to reconnoitre the harbour's mouth, and captain Hervey to endeavour to land a letter to general Blakeney, to acquaint him the fleet was there to his assistance, though every one thought we could be of no service to him, as by all accounts, could we have spared any people, no place was secured for covering a landing. The Phœnix was also to make the private signal between captain Hervey and captain Scrope; but the enemy's fleet appearing to the south-east, and the wind coming off the land, I was obliged to call those ships in, before they could get so near the harbour as to discover what batteries or guns might be placed to prevent our having any communication with the castle. Falling little wind, it was five before I could form my line, or distinguish any of the enemy's motions, and was unable to judge of their force more than by their numbers, which were seventeen, and thirteen appeared large.

"At first they stood towards us in a regular line, and tacked about seven, in order, as I thought, to endeavour to gain the wind of us in the night; so that, being late, I tacked, in order to keep the weather-gage of them, and also to make sure of the land wind.

"After getting round the small island, called the Laire of Mahon, at ten in the morning, I was within a league of the port; but on seeing the enemy's fleet, I thought it more immediately my duty to bear away at eleven, to meet them. This obliged me to recall, with reason, the three frigates which I had sent ahead of the fleet, to reconnoitre the harbour's mouth, to land a letter for general Blakeney, to acquaint him the fleet was arrived to his assistance, and to know in what manner it could be of the most effectual service.

"This behaviour will, I hope, appear to the court to be suggested by prudence, all that could have been attempted in the space of an hour, and the most advantageous step which could have been taken on that occasion. It proves that I did not depend on the hearsay evidence which I had received, even from the best authorities at Gibraltar, nor on the united opinion of every officer at that place; but that I was determined to be certified of the true state of the harbour and citadel from general Blakeney himself, as I knew that captain Scrope, who, together with all the soldiers and marines of Mr. Edgecomb's ships, and one hundred seamen, had been left to reinforce the garrison, would come off in his barge, and bring me a just relation of every circumstance necessary to be known; and though I mentioned in my letter of the 25th of May, 'That it was the opinion of all the sea and land officers, that they could render no service to the garrison, as no place was covered for the landing of any men, could they have spared any:' in this I only gave my opinion agreeable to that of all the other officers. Their opinion had no influence upon my conduct, and was only meant to signify what might have been the event, supposing the French fleet had not appeared at that time.

"So far then I hope it will appear to the court, that neither knowledge of my profession, prudence in conducting the expedition, nor duty to my king and country, appear to be deficient in me.

"When then, from the inferiority of the English, nothing could be reasonably expected but misfortune and disgrace; or, if by the greatest efforts of good fortune, victory should declare for our fleet, that no advantage could be drawn from it; when the risk of losing the whole fleet was the result of an unanimous council of war; and the nation, considering the real state of the English and French navies, so little able to sustain a loss of that kind; when Gibraltar would have been left defenceless, and fallen of course to the enemy; could the seeking the French admiral, by a commander who foresaw these probable consequences with not only an inferior, but a shattered fleet, and no other ships in the Mediterranean to reinforce him, have been justified in the judgment of men who have studied the nature of military achievements, or according to the rules and observations of ancient and modern writers on this head.

"The utmost advantage could have been but a prolongation of the siege, without the least probability of raising it; because the fleet, unable to keep the seas, must have retreated to Gibraltar, the port of Mahon being still commanded by the enemy's batteries."

SENTENCE.

At a court-martial assembled on board his majesty's ship St. George, in Portsmouth harbour, upon the 27th of January, 1757, present, vice-admiral Smith, president, rear-admiral Holbourne, rear-admiral Norris, rear-admiral Broderick, captain Holmes, captain Geary, captain Boys, captain Moore, captain Simcoe, captain Douglas, captain Bentley, captain Keppel, and captain Dennis: The court, pursuant to an order from the lords commissioners of the admiralty, having heard the evidence, and the prisoner's defence, and very maturely and thoroughly considered the same, they are unanimously of opinion that he did not do his utmost to relieve St. Philip's castle, and also that during the engagement between his majesty's fleet under his command, and the fleet of the French king, on the 20th of May last, he did not do his utmost to take, seize, and destroy the ships of the French king, which it was his duty to have engaged, and to assist such of his majesty's ships as were engaged in fight with the French ships, which it was his duty to have assisted; and do therefore unanimously agree that he falls under part of the twelfth article of an act of parliament, of the twenty-second year of his present majesty, for amending, explaining, and reducing into one act of parliament the laws relating to the government of his majesty's ships, vessels, and forces by sea; and as that article positively prescribes death, without any alternative left to the discretion of the court, under any variation of circumstance, the court do, therefore, hereby unanimously *adjudge the said admiral John Byng to be shot to death*, at such time, and on board such ship, as the lords commissioners of the admiralty shall direct.

But as it appears by the evidence of lord Robert Bertie, lieutenant-colonel Smith, captain Gardiner, and other officers of the ship, who were near the person of the admiral, that they did not perceive any backwardness in him during the action, or any marks of fear, or confusion, either from his countenance or behaviour, but that he seemed to give his orders coolly and distinctly, and did not seem wanting in personal courage, and from other circumstances, the court do not believe that his misconduct arose either from cowardice or disaffection, and do therefore unanimously think it their duty most earnestly *to recommend him as a proper object of mercy.*

It was, however, made a party question—the ministers were blamed for not sending a stronger fleet,—and then, to screen themselves, sacrificed Byng; who was barbarously shot for what at worst was but an error of judgment.

RICHARD SAVAGE, THE POET, JAMES GREGORY, AND WILLIAM MERCHANT,

FOR THE MURDER OF JAMES SINCLAIR.

RICHARD SAVAGE, James Gregory, and William Merchant were indicted for the murder of James Sinclair: Savage, by giving him, with a drawn sword, one mortal wound in the lower part of the body, of the length of half an inch, and the depth of nine inches, on the 20th of November, 1727, of which mortal wound he languished till the next day, and then died: and Gregory and Merchant by being present, aiding, abetting, comforting, and maintaining the said Savage, in committing the said murder.

At the request of the prisoners, the witnesses were examined apart.

Mr. Nuttal.—On Monday the 20th of November last, about eleven at night, the deceased, Lemery, his brother, and I, went to Robinson's coffee-house, near Charing Cross, where we staid till one or two in the morning. We had drank two three-shilling bowls of punch, and were just concluding to go, when the prisoners came into the room. Merchant entered first, and, turning his back to the fire, he kicked down our table without any provocation. What do you mean? said I; and what do you mean? said Gregory. Presently Savage drew his sword, and we retreated to the farther end of the room. Gregory drawing too, I desired them to put up their swords, but they refused. I did not see the deceased draw, but Gregory turning to him, said, villain, deliver your sword; and soon after, he took the sword from the deceased. Gregory's sword was broken in the scuffle; but, with the deceased's sword, and part of his own, he came and demanded mine; and I refusing to deliver it, he made a thrust at me. I defended myself. He endeavoured to get my sword from me; but he either fell of himself, or I threw him, and took the deceased's sword from him. I did not see Savage push at the deceased, but I heard the deceased say, I am a dead man! And soon after the candles were put out. I afterwards went up to the deceased, and saw something hang out at his belly, which I took to be his caul. The maid of the house came in, and kneeled down to suck the wound, and it was after this that the soldiers came in: and I and Gregory were carried to the watch-house.

Gregory.—Did not I say, put up your swords?

Nuttal.—There might be such an expression, but I cannot call to mind when it was spoke.

Mr. Lemery.—I was with the deceased, Mr. Nuttal, and my brother, at Robinson's coffee-house, and we were ready to go home, when somebody knocked at the door. The landlady opened it, and let in the prisoners, and lighted them into another room. They would not stay there, but rudely came into ours. Merchant kicked down the table. Our company all retreated. Gregory came up to the deceased, and said, you rascal, deliver your sword. Swords were drawn. Savage made a thrust at the deceased, who stooped, and cried oh! At which Savage turned pale, stood for some time astonished, and then endeavoured to get away, but I held him. The lights were then put out. We struggled together. The maid came to my assistance, pulled off his hat and wig, and clung about him. He, in striving to force himself from her, struck at her, cut her in the head, and at last got away. I went to a night-cellar, and called two or three soldiers, who took him and Merchant in a back court—when Savage gave the wound, the deceased had his sword drawn, but held it with the point down towards the ground, on the left side. As to Merchant, I did not see that he had any sword.

Mr. Nuttal again.—Nor I; nor did I see him in the room after the fray

began. But after the candles were put out, he was taken with Savage in a back court.

Jane Leader.—I was in the room, and saw Savage draw first. Then Gregory went up to the deceased, and Savage stabbed him; and, turning back, he looked pale. The deceased cried, I am dead! I am dead!—I opened his coat, and bid the maid-servant suck the wound. She did, but no blood came. I went to see the deceased upon his death-bed, and desired him to tell me how he was wounded. He said, the wound was given him by the least man in black; this was Savage, for Merchant was in coloured clothes, and had no sword,—and that the tallest of them, which was Gregory, past, or struck his sword, while Savage stabbed him. I did not see the deceased's sword at all, nor did he open his lips, or speak one word to the prisoners.

Mrs. Edersby.—I keep Robinson's coffee-house. When I let the prisoners in, I perceived they were in drink. I showed them a room. They were very rude to me. I told them, if they wanted any liquor, they should have it; but, if they did not, I desired their absence. Upon which one of them took up a chair, and offered to strike me with it. They went into the next room, which is a public coffee-room in the day-time. Merchant kicked down the table. Whether the other company were sitting or standing at that table, I cannot be positive; but it was a folding table with two leaves, and there were two other tables in the same room. Swords were drawn; the deceased was wounded, and Savage struggled with the maid-servant, and cut her over the head with his sword.

Mary Rock, the maid.—My mistress and I let the prisoners into the house. My mistress showed them a room. Merchant pulled her about very rudely, and, she making resistance, he took up a chair, and offered to strike her with it. Then asking, who was in the next room? I answered, some company who have paid their reckoning, and are just going, and you may have the room to yourselves, if you will have but a little patience. But they would not, and so they ran in. I went in not long after, and saw Gregory and Savage with their swords drawn, and the deceased with his sword in his hand, and the point from him. Soon after I heard one of them say, poor dear Sinclair is killed! I sucked the wound, but it would not bleed. Savage endeavoured to get away, but I stopt him. I did not see the wound given to the deceased, but I afterwards saw the encounter between Mr. Nuttal and Mr. Gregory.

Mr. Taylor, a clergyman.—On the 21st of November I was sent for to pray by the deceased, and after I had recommended him to the mercy of Almighty God, Mr. Nuttal desired me to ask him a few questions; but, as I thought it not belonging to my province, I declined it. Mr. Nuttal, however, willing to have a witness to the words of a dying man, persuaded me to stay while he himself asked a question. And then, turning to the deceased, he said, do you know from which of the gentlemen you received the wound? The deceased answered, from the shortest in black (which was Savage), the tallest seized hold of my sword, and the other stabbed me.

Rowland Holderness, watchman.—I came to the room just after the wound was given, and then I heard the deceased say, I was stabbed barbarously, before my sword was drawn.

John Wilcox, another watchman.—I saw the deceased leaning his head upon his hand, and heard him then say, I am a dead man, and was stabbed cowardly.

Mr. Wilkey, surgeon.—I searched the wound, it was on the left side of the belly, as high as the navel. The sword had grazed on the kidney, and I believe that wound was the cause of his death.

Court.—Do you think the deceased could have received that wound in a posture of defence?

Mr. Wilkey.—I believe he could not, except he was left-handed.

THE PRISONERS' DEFENCE.

Mr. Gregory said, that the reason of their going into that room was for the benefit of the fire; that the table was thrown down accidentally; that the house bore an infamous character, and some of the witnesses lay under the imputation of being persons who had no regard to justice or morality.

Mr. Savage having given the court an account of his meeting with Gregory and Merchant, and going with them to Robinson's coffee-house, made some remarks on what had been sworn by the witnesses, and declared that his endeavouring to escape was only to avoid the inclemencies of a jail.

Then the prisoners called their witnesses.

Henry Huggins, Thomas Huggins, and Robert Fish, deposed, that they were present at the latter part of the quarrel, and saw Mr. Nuttal engaged with Mr. Gregory, and struggling with a sword. This only confirmed part of Nuttal's evidence. They added, that the coffee-house was a house of ill-fame.

Mary Stanley deposed, that she had seen the deceased in a quarrel before that in which he was killed; that Mr. Nuttal and he were very well acquainted, and that she had seen Mr. Nuttal and Jane Leader in bed together.

John Pearse deposed, that Jane Leader told him, that when the swords were drawn she went out of the room, and did not see the wound given: that she was a woman of ill reputation, and that the coffee-house had a bad character.

John Eaton deposed, that he had known the deceased about two months, and had heard that his character was but indifferent.

Mr. Rainby deposed, that the morning after the accident, he went to the coffee-house to inquire for Mr. Merchant, and then heard Mr. Nuttal say, that if he had any of the prisoners in a convenient place he would cut their throats, provided he could be sure of escaping the law.

Mr. Cheeseborough deposed to the same effect.

Mr. Nuttal.—Being moved with the barbarous treatment my friend had met with, I believe I might say, that if I had them in an open field, I would not have recourse to the law, but do them justice myself.

Then Mr. Nuttal called several gentlemen, who deposed he was a man of reputation, civility, and good manners.

Several persons of distinction appeared in behalf of the prisoners, and gave them the characters of good-natured, quiet, peaceable men, and by no means inclinable to be quarrelsome.

And the prisoners then said, they hoped the good characters that had been given them, the suddenness of the unfortunate accident, and their having no premeditated malice, would entitle them to some favour.

The court, having summed up the evidence, observed to the jury, that as the deceased and his company were in possession of the room, if the prisoners were the aggressors by coming into that room, kicking down the table, and immediately thereupon drawing their swords without provocation, and the deceased retreated, was pursued, and killed in the manner as had been sworn by the witnesses, it was murder, not only in him who gave the wound, but in the others who aided and abetted him. That as to the characters of the prisoners, good character is of weight where the proof is doubtful, but flies up when put in the scale against plain and positive evidence; and as to the suddenness of the action, where there is a sudden quarrel, and a provocation is given by him who is killed, and where suddenly and mutually persons attack each other and fight, and one of them is killed in the heat of blood, it is manslaughter. But where one is the aggressor, pursues the insult, and kills the person attacked, without any provocation, though on a sudden, the law implies malice, and it is murder.

The trial lasted eight hours. The jury found Richard Savage and James Gregory guilty of murder, and William Merchant guilty of manslaughter.

On Monday, December 11th, being the last day of the sessions, Richard Savage and James Gregory, with four others capitally convicted, were brought again to the bar to receive sentence of death. And being severally asked (as is usual on such occasions) what they had to say why judgment should not be passed upon them, Mr. Savage addressed himself to the court in the following terms:—

It is now, my lord, too late to offer any thing by way of defence or vindication; nor can we expect aught from your lordships, in this court, but the sentence which the law requires you as judges to pronounce against men in our calamitous condition. But we are also persuaded, that as mere men, and out of the seat of rigorous justice, you are susceptive of the tender passions, and too humane not to commiserate the unhappy situation of those whom the law sometimes, perhaps, exacts from you to pronounce upon. No doubt you distinguish between offences which arise out of premeditation and a disposition habitual to vice and immorality, and transgressions which are the unhappy and unforeseen effects of a casual absence of reason and sudden impulse of passion: we therefore hope you will contribute all you can to an extension of that mercy which the gentlemen of the jury have been pleased to show Mr. Merchant, who (allowing facts as sworn against us by the evidence) has led us into this calamity. I hope this will not be construed as if we meant to reflect upon that gentleman, or remove any thing from us upon him, or, that we repine the more at our fate, because he has no participation of it; no, my lord! for my part, I declare, nothing could more soften my grief than to be without any companion in so great a misfortune.

Mr. Merchant was burnt in the hand.

At the end of the next sessions, held the 20th of January, Richard Savage and James Gregory were admitted to bail, in order to their pleading the king's pardon. And, on the last day of the following sessions, being the 5th of March, 1727–8, they accordingly pleaded his majesty's pardon, and their bail were discharged.

But to come to the dismal cause of his present condition. Having for some time had a lodging at Richmond for the benefit of the air, and the conveniences of his study, he came to town on Monday the 20th of November last, in order to pay off another he had in Queen-street, Westminster, thinking the expense too great to keep them both; and falling into company with Mr. Merchant and Mr. Gregory, they all went together to a coffee-house, near his old lodging, where they drank till pretty late in the evening. Mr. Savage would willingly have got a bed at the coffee-house for that night, but there not being a conveniency for himself and company both, they went away from thence with a resolution to waste time as well as they could till morning, when they proposed to go together to Richmond. In their walks, seeing a light in Robinson's coffee-house, they thought that a place proper to entertain them, though Mr. Savage protested he was entirely ignorant of the character of the house, and had never been there before. What was the consequence of their going in there, we have already seen.

COURT-MARTIAL ON ADMIRAL KEPPEL.

The courts-martial on Keppel and Palliser are so intimately connected with the history of the country, that they merit a place in this collection.

In the midst of the struggle with the colonies, France and Spain coalesced with them, and in July, 1778, the hopes of the British government were fixed on the channel fleet, commanded by an experienced seaman, admiral Keppel. Unfortunately, Palliser, the admiral of the blue and rear division,

was a lord of the admiralty, and in the presence of the enemy he chose to think for himself, instead of obeying orders. The consequence was, the escape of the French fleet, at a time when a decisive naval victory was required by the circumstances of the country.

Keppel was of the party of the opposition, and Palliser one of the ministry. Hence the influence of the latter in bringing the former to trial, and the joy of the nation on his acquittal. The facts, however, rendered it necessary to bring Palliser to a subsequent trial, but the feeling of the government was proved, by his being, soon afterwards, made governor of Greenwich hospital, the most lucrative naval appointment in the gift of the crown.

Keppel, in the mean time, was rejected from the representation of Windsor, by the admitted influence of the court; but when the whigs out-voted the ministers in 1781, he was raised to a peerage, and made first lord of the admiralty, but removed by the subsequent changes.

On the 7th of January the signal was made for all the admirals and captains of his majesty's fleet to come on board the Britannia in Portsmouth harbour.

Then the judge-advocate read the order sent by the lords of the admiralty to sir Thomas Pye, admiral of the white, to hold the court-martial, dated the 31st of December, 1778, signed Sandwich, T. Buller, Lisburne; and for adjourning to the governor of Portsmouth's house.

The following members were then sworn, agreeably to act of parliament.

President, sir Thomas Pye, admiral of the white, Matthew Buckle, Esq. vice-admiral of the red, John Montagu, Esq., vice-admiral of the red, Marriot Arbuthnot, Esq., rear-admiral of the white, Robert Roddam, Esq., rear-admiral of the white, captains M. Milbank, Francis Samuel Drake, Taylor Penny, John Mourtray, William Bennet, Adam Duncan, Philip Boteler, and James Cranston.

The court was then adjourned to the house of the governor of Portsmouth, when the president desired the judge-advocate to read the charge.

A Charge of Misconduct and Neglect of Duty against the Honourable Admiral Keppel, on the 27th and 28th of July, 1778, in divers instances undermentioned.

I. That on the morning of the 27th of July, 1778, having a fleet of thirty ships of the line under his command, and being then in the presence of a French fleet of the like number of ships of the line, the said admiral did not make the necessary preparations for fight, did not put his fleet into a line of battle, or into any order proper either for receiving or attacking an enemy of such force; but, on the contrary, although his fleet was already dispersed and in disorder, he, by making the signal for several ships of the vice-admiral of the blue's division to chase to windward, he increased the disorder of that part of his fleet, and the ships were, in consequence, more scattered than they had been before; and whilst in this disorder, he advanced to the enemy, and made the signal for battle.

That the above conduct was the more unaccountable, as the enemy's fleet was not then in disorder, nor beaten, nor flying, but formed in a regular line of battle, on that tack which approached the British fleet (all their motions plainly indicating a sign to give battle), and they edged down and attacked it whilst in disorder. By this unofficer-like conduct a general engagement was not brought on, but the other flag-officers and captains were left to engage without order or regularity, from whence great confusion ensued; some of his ships were prevented getting into action at all, others were not near enough to the enemy, and some, from the confusion, fired into others of the king's ships, and did them considerable damage; and the vice-admiral of the

blue was left alone to engage singly and unsupported. In these instances the said admiral Keppel negligently performed the duty imposed on him.

II. That after the van and centre divisions of the British fleet passed the rear of the enemy, the admiral did not immediately tack and double upon the enemy with those two divisions, and continue the battle; nor did he collect them together at that time, and keep so near the enemy as to be in readiness to renew the battle as soon as it might be proper; but, on the contrary, he stood away beyond the enemy to a great distance, before he wore to stand towards them again; leaving the vice-admiral of the blue engaged with the enemy, and exposed to be cut off.

III. That after the vice-admiral of the blue had passed the last of the enemy's ships, and immediately wore and laid his own ship's head towards the enemy again, being then in their wake, and at a little distance only, and expecting the admiral to advance with all the ships to renew the fight, the admiral did not advance for that purpose, but shortened sail, hauled down the signal for battle; nor did he at that time, or at any other time, whilst standing towards the enemy, call the ships together, in order to renew the attack, as he might have done; particularly the vice-admiral of the red, and his division, which had received the least damage, had been the longest out of action, were ready and fit to renew it, were then to windward, and could have bore down and fetched any part of the French fleet, if the signal for battle had not been hauled down; or if the said admiral Keppel had availed himself of the signal appointed by the thirty-first article of the fighting instructions, by which he might have ordered those to lead who are to lead with the starboards tacks on board by a wind; which signal was applicable to the occasion for renewing the engagement with advantage after the French fleet had been beaten, their line broken, and in disorder. In these instances he did not do the utmost in his power to take, sink, burn, or destroy the the French fleet that had attacked the British fleet.

IV. That instead of advancing to renew the engagement, as in the preceding articles is alleged, and as he might and ought to have done, the admiral wore and made sail directly from the enemy: and thus he led the whole British fleet away from them, which gave them the opportunity to rally unmolested, and to form again into a line of battle, and to stand after the British fleet; this was disgraceful to the British flag, for it had the appearance of a flight, and gave the French admiral a pretence to claim the victory, and to publish to the world that the British fleet ran away, and that he pursued it with the fleet of France, and offered it battle.

V. That on the morning of the 28th of July, 1778, when it was perceived that only three of the French fleet remained near the British, in the situation the whole had been in the night before, and that the rest were to leeward, at a greater distance, not in a line of battle, but in a heap, the admiral did not cause the fleet to pursue the flying enemy, nor even to chase the three ships that fled after the rest; but, on the contrary, he led the British fleet another way, directly from the enemy.

By these instances of misconduct and neglect, a glorious opportunity was lost of doing a most essential service to the state, and the honour of the British navy was tarnished.

Captain Marshall, of the Arethusa frigate, sworn and examined by sir Hugh Palliser.

His evidence tended to prove, that at six in the morning of July 27, the British fleet were much dispersed; that a signal was made for chasing, which scattered the ships still more; that the French fleet were in a line of battle about nine o'clock in the morning before the engagement began; that admiral Keppel made no signal for forming into a line, but advanced toward the enemy without any such disposition; that from this circumstance it was

impossible to engage ship to ship; and that in this situation admiral Keppel made the signal for battle.

Q. The morning after the engagement, that is, on the 28th of July, were not three of the enemy's ships in sight?—I observed three sail.

Q. Were they line-of-battle ships or frigates?—I cannot say.

Q. Was there any signal made by the admiral to chase them?—I think not.

Admiral Montague. On the day you first saw the French fleet, to the day you lost sight of them, do you, from your observation or knowledge know of any act of the commander-in-chief, admiral Keppel, behaving or conducting himself unbecoming a flag officer?—No, as God's my judge.

MONDAY, JANUARY 11TH.

Sir William Burnaby then informed the court, that when he first perceived the French fleet, the afternoon of the 23d, they were to eastward of our fleet, nearly a-head, or rather leeward, standing towards us, and appearing to be in great disorder; that, the Milford having received orders from the admiral to reconnoitre the enemy, he made towards them. That at half-past four, he tacked and stood towards the Victory, the French fleet nearly then beginning to form a line a-head, seeming to direct their course to the leeward of our fleet, and very little from the wind. About half-past eight o'clock, the British admiral made signal for the fleet to bring to, and, to the best of my recollection, it continued in that situation all night.

Upon further interrogations it appeared that the French fleet were all that day forming in a line of battle: that on the 25th and 26th the weather was squally, with fresh gales, which occasioned such a north-west swell as is usual with such winds; that they kept the weather-gage of us all the time, generally observing their line of battle, and rather gained upon our fleet; sometimes carrying a pressing sail, at other times under an easy sail, for the better perfecting their line of battle; and that during all that time, had they been ever so much disposed to attack our fleet, they could not have done it without disadvantage, as they could not, without risk, fight their lee lower deck guns, whilst we could fight our weather lower deck guns.

He was then examined as to the situation of the British fleet on the morning of the 27th; when he said they were somewhat dispersed; that a signal was made by the admiral between nine and ten that morning, for some ships to chase, and he saw them crowd sail accordingly; but could not say whether they were of the blue division. That he did not perceive the admiral make any signal for the fleet to form into a line of battle a-head, or upon any point of the compass: that, about eight o'clock, the French were in a regular line of battle; and that at half-past eleven, when the admiral made a signal to engage, our fleet seemed scattered. The French were pretty well formed all the morning, and the attack was begun by them: that our signal for battle was hoisted about eight minutes after the firing began.

Admiral Montague inquired, whether, if the admiral had not advanced, he could have brought the French to action? The witness replied, he should think not, if the French had been disposed to get away; but believed, that if the French had lain to for us, the action would have been more general; but the French fleet absolutely edged down, and brought on the engagement sooner. He could not charge his memory exactly to the time the signal of battle was hauled down; but, the admiral being a-head of the enemy, he remembered his wearing again and standing from the enemy upon the starboard tack, which tack the enemy was upon also; at that time the admiral wore by signal; that, a little after the action ceased, he observed the French fleet beat up their line of battle, and in confusion, but not scattered; that the vice-admiral had before that time doubled on the rear of the enemy, and was to windward of them; that, to the best of his judgment, sir Robert Harland and his division could have borne down upon the enemy, then being to wind

ward of them, had the admiral advanced with the rest of the British fleet, and kept the signal for battle flying, or if he had observed the signal appointed by the thirty-first article of the fighting instructions, for the ships on the starboard tack to take the lead; and that, if the enemy had been so re-attacked in that confusion by the vice-admiral of the red bearing down, and the admiral advancing, the enemy must have been prevented from forming the line so soon as they did; and, finally, that they formed unmolested; but, as a very young officer, he did not lay much weight upon the competency of his judgment.

The rest of this evidence, which concluded the business of the court for that day, tended chiefly to prove, that the vice-admiral of the red, and part of his division, had occupied the station of the admiral's wake, into which he had made signal for sir Hugh Palliser to get; but sir Robert was ordered by the admiral to get his own station a-head as soon as he could; he remembered, he said, the admiral, when he wore, had left the Vengeance a-stern about two miles, much disabled, and in great danger of being cut off; he also remembered seeing three or four of the enemy's fleet next morning, which were not pursued by any of our fleet.

TUESDAY, JANUARY 12.

Sir William Burnaby was cross-examined by admiral Keppel, as to the vice-admiral's situation and conduct after the engagement; when it appeared that from the natural superiority of the Victory over the Formidable in sailing, and the damage the latter had sustained, sir Hugh Palliser could not accompany the admiral; but that he did not see him make any signal of his disability.

In the course of the admiral's questions to sir William, he asked, did I not pursue with a press of sail, conformable to my worst sailing ships, to close and get up, until the moment I brought them to battle, except the two times after the 24th that I made the signal for the line? Sir Hugh objected to this as a leading question.

Admiral Keppel. I desire I may not be interrupted by the accuser. I am trying for my life and for my honour, which is dearer, and hope for the protection of the court.—Soon after, he said, I would have fired at the French if they had not fired at me.

Answer from sir William to the question. You always pressed sail, and gave every proof of your great desire of bringing the French to battle.

Captain Digby, of the Ramillies, was then called for examination.

Sir Hugh Palliser began to interrogate him with regard to the business of 23d, when admiral Keppel begged the court to take notice, that, for the purpose of shortening, if possible, the length to which he saw the trial would necessarily extend, if they still went over the same ground, and questions were repeatedly asked which he had admitted, he again told them that he admitted that the French fleet put themselves into order of battle when we discovered them. When captain Digby mentioned, that from squally weather there was a swelling sea, and was asked whether the ships could then fight their lower deck guns; he said, he could not have fought all his.

The prosecutor then asked,—Had the French come down and attacked the British fleet at the time when the British fleet could not fight their lower-deck guns, would it not have been very disadvantageous for us? Here it was objected to sir Hugh Palliser, that he had, as usual, drawn conclusions very different from the evidence, and asked his questions in terms which were not admitted. Such an unwarrantable perversion could not be tolerated. Instead of stating that the Ramillies could not fight part of her lower-deck guns, he had stated that all the fleet could not fight all their lower-deck guns. In consequence of this timely reproof, he altered his question, and it stood, that, whenever such ships as the Ramillies could not fight her lee lower-deck guns, would it not have been, &c.—That seems matter of opinion, and depends on their ships.

Sir Hugh Palliser. Did the admiral make the signal for battle while the fleet was scattered and dispersed?—Here again the vice-admiral was called upon to attend to the words of the witness. The witness averred he had never said the fleet was scattered and dispersed. The four ships indeed that were ordered to chase were separated. This, admiral Keppel said, he meant them to be, and he hoped there would be found no more of these mis-statings.

Q. by Admiral Montague. Can you acquaint the court of any instance within your own knowledge, during the time the British and French fleets were in action, that admiral Keppel neglected to do his utmost to burn, sink, and destroy the enemy, having it in his power so to do, or negligently performed the duty imposed on him?—I have always had the greatest esteem and the greatest opinion of admiral Keppel, as an officer; I have so still, but I have been giving evidence upon facts, and the answering that question would be judging upon them, which I have no right to do.

Admiral Montague. In both articles of the charge, admiral Keppel is charged with running away from the French fleet. Did you that day see him run away from them, instead of advancing to renew the engagement, as he might and ought to have done, which are the words expressed in the charge?

The charge was then read, and an objection started by sir Hugh Palliser to the question, as contrary to law. Upon which several members of the court-martial said, they did not care six-pence in this case for the law; we are come here to do justice, and hope, in God's name, it will be done.

Admiral Montague. If admiral Keppel ran away, captain Digby did so too; and I suppose every part of the fleet followed their leader. Did you that day run away from the French fleet?—No.

WEDNESDAY, JANUARY 13.

Continuation of captain Digby's evidence.

Admiral Montague. In the second article of the charge against admiral Keppel, it is stated that he did not collect his ships together in the morning of the 27th, when the French attacked him; were not the van and the centre of the English fleet engaged when they passed?—Great part of them were.

Q. Was the ship you commanded engaged?—Yes.

Q. What was the condition of your ship?—Our main-top sail was cut to pieces, our standing and running rigging very much cut, so that we were not able to wear for some time. The fore-mast wounded in several places, and in one place it was cut one half through. Several of the other masts were wounded; the main-yard and main-mast in particular.

Admiral Montague. In the situation of your ship, was it such as you could have renewed the attack, if the admiral had tacked immediately after the enemy?—I do not think my ship was in a condition to seek an attack for a good while.

Admiral Montague. How long was it after, before you could have renewed the attack, if the admiral had thought proper so to do?—It was near seven o'clock before I was able to tack; the lee leech main-sail being so cut, that I could not set it upon the other tack, which was necessary on account of my being so far to leeward.

Admiral Keppel. I must ask captain Digby a question. Could he, with a squadron of ships under his command, while the French were in the situation described on the 24th, 25th, or 26th, with such weather, wind, and sea, as he has described, and seeing an enemy of equal force to the leeward, in the position he has stated; could he have hesitated one moment, on account of weather, wind, and sea, to have led his squadron down to battle?—I believe I should have attacked them.

Admiral Keppel. I asked whether you would have hesitated one moment?—I think I should not have hesitated.

Admiral Keppel. Can he inform the court of the relative situation of the

English and French fleets, at daylight on the 27th of July?—As well as I recollect, we were both on the larboard tack, the French fleet, about six, seven, or eight miles to windward of us.

Then a fresh witness, captain Windsor, of the Fox, was called, sworn, and examined. His evidence was in effect as follows:—

Q. Did you receive any orders from the admiral on the morning of the 27th of July?—I did.

Q. At what hour?—A little before five.

Q. What were the orders you received?—They were to stand towards the Formidable, with the admiral's compliments to sir Hugh Palliser, and that he only waited for sir Hugh Palliser and his division, bearing down into his wake to renew the attack on the enemy.

Q. Did you then commit these orders to writing?—No, sir.

Q. From whom did you receive those orders?—From admiral Keppel.

Q. Did he give them to you on board, or by hailing?—I was not on board, I received the message under the Victory's stern.

Q. From the admiral himself?—Yes.

Q. What time did you deliver your orders?—By the time I received them, it must be about half-past five.

Q. Who did you deliver them to?—I repeated the message twice to you, sir Hugh Palliser.

Q. In delivering the message, did you use the exact words you have before, in the course of your evidence, repeated, or did you only inform me that the admiral wanted my ships to come in his wake?—I have already repeated my message, word for word, as I delivered it.

Q. What answer did I give you?—That you understood me very well.

Q. Did not I bid you inform the admiral, that I had repeated his signals for the ships to bear down?—I did not hear any such message.

Admiral Montague. Did you see admiral Keppel on the day of the engagement, or the day after, run away from the French fleet?—No.

Thursday, January 14.

Captain Hood, of the Robuste, was called upon and sworn.

Admiral Keppel. Mr. President, I know it is expected by some, that after the history which the court had received of the alterations made in captain Hood's log-book, by his order, since it was known that my trial was to come on, I should object to his evidence.

Sir Hugh Palliser. I beg captain Hood to inform the court what those alterations were, before he gives his evidence.

Captain Hood observed, that the winds, the courses, and the distances in the Robuste's log-book stood unaltered. That the corrections were in the narrative part, and, not knowing but he should be called there a prisoner perhaps, and not an evidence, he was willing to have it correct. Many reflections, he said, had been cast upon his character in public, which much alarmed him; he therefore thought it necessary to correct his log-book for the honour and safety of the officers in his division. He begged leave to call the master of the Robuste, with lieutenants Pitt and Lumley, to clear up the matter; adding that he conceived a captain of the navy had a right to alter and correct his log-book.

The first question by sir Hugh Palliser was then put,—What were the alterations you made in the log-book?—The captain replied, the first alteration is in sending out the ships to chase in the morning; my log-book first stated, that the vice-admiral sent out the ships to chase; I altered it to the admiral made signal for our ship and others to chase. The second alteration speaks more fully to the admiral's signals in the afternoon to wear down. The other alteration is the seeing the three ships in the morning of the 28th, which was omitted in the original. The log-book before the court speaks of the Robuste bearing down to his station in the afternoon, and

keeping as near to it as a disabled ship could, the admiral making much sail.

Admiral Arbuthnot. If the admiral had thought fit to have renewed the attack when the French line was broke, could you have obeyed his signal and gone down to the enemy in the condition you were in?—I could not.

Admiral Montague. From their relative situation, as you have described them, do you think the British admiral was running away from the enemy?—At that time there was no appearance of a flight.

Did the admiral run away any other time?—There was nothing in his conduct at any time which indicated, in the most distant manner, a flight. In the morning he pursued them.

FRIDAY, JANUARY 15.

At ten o'clock the court was resumed, when captain Hood, of the Robuste, was again called to the bar.

Admiral Montague. Did you see the French fleet to leeward on the morning of the 28th?—I did not see the French fleet to leeward on the 28th, except three sail.

Q. Did you see when the admiral made the signal in the morning of the 28th for the three ships to be chased, any ships that made a signal to set up their rigging?—I saw the flags for some ships to chase, in the south-east, early in the morning. I do not recollect at that time to have seen any signal for ships to set up their rigging.

Sir Hugh Palliser. By the admiral's shortening sail, whilst standing towards the enemy, hauling down the signal for battle, wearing and standing to the southward, with the French fleet then astern, did you or did you not then conclude that the admiral had determined not to re-attack that evening?—I did not see the admiral shorten sail. I cannot pretend to judge of the admiral's determination.

Admiral Montague. Do you think, supposing the British fleet to sail equally well with the French fleet, there was a probability of the admiral's coming up with them before night, provided they had continued to fly from him?—I think not.

Admiral Montague. Supposing the British admiral had chased the French fleet, and seen them go into port, supposing himself to be within four leagues of the French coast, and a gale of wind had come on, would not the British fleet have been in great danger in the condition it was, making the enemy's coast a lee-shore?—I certainly think the disabled part of the British fleet would have been in danger.

Q. Had the French fleet, after the action of the 27th, when to leeward, continued to lay to till daylight next morning, do you not think that admiral Keppel would have bore down, and engaged them, provided the ships were in a condition so to do?—He certainly would.

Captain Hood was then cross-examined by Admiral Keppel, with an intention to prove that the alterations in the Robuste's log-book were made after he had heard of the intention of calling a court-martial on him.—To which the captain replied, he had only heard rumours in common conversation.

Admiral Keppel. Am I to understand, sir, upon the oath you have taken, that you had not heard of my intended trial, when you directed those alterations to be made?—I had heard it as a common conversation, but no further.

Had you not then heard, that sir Hugh Palliser had exhibited a charge against me, though you did not know the particulars of it?—I had heard there was to be a court-martial, therefore I knew there must be a charge.

Q. What then led you to discover, four months afterwards, any error in the state of the transactions of these two days which you did not discover at the time?—I was led to the discovery of the truth for the sake of myself.

Admiral Keppel. Mr. President, as that alteration in captain Hood's log-book tends to affect my life, I shall ask him no more questions.

Sir Hugh Palliser here requested leave to offer a few words to the court,

in consequence of what admiral Keppel had just said; and being indulged, he condemned the admiral's impeachment of captain Hood's credit and character, and pledged himself to examine many witnesses in the progress of the trial, to resist, defeat, and confute the cruel and invidious attack. He was stopped in his career by the court, who declared they could not sit and hear it called a cruel and invidious attack in the prisoner to ask such plain and straight questions as were necessary to the investigation of truth.

Admiral Montague said, that he had heard no impeachment of captain Hood's character whatever. The admiral had stated a plain fact, which was acknowledged by the captain, and that fact rendered him no longer eligible, however competent, as a witness: the expressions of the accuser might be proper in Westminster Hall, but they could not be tolerated in a court-martial.

It was determined that the speech of sir Hugh Palliser should not appear on the minutes.

Admiral Montague. From the whole of the transactions of the British fleet on the 27th and 28th of July, did it appear to you, as an old and experienced officer, that admiral Keppel did, on either of these days, tarnish the honour of the British fleet?—I have long had the honour of knowing the honourable admiral, and I still respect him, notwithstanding my evidence will not be farther requisite. His character is above my praises. I have given my evidence, as far as it has gone, with honour and integrity. The court must therefore judge and decide upon that question.

Saturday, January 16.

Captain Allen, of the Egmont, was then called by sir Hugh Palliser as a witness in support of the charge, and examined as to the circumstances of the action; concerning which, so far as his memory served, his depositions were materially the same with those of former witnesses: but he alleged that his log-book and journal were at Plymouth.

Q. When you joined the vice-admiral of the blue, about seven o'clock, did you then see the signal on board the Victory for the line of battle ahead, and the blue flag under it, in bearing down to the Victory?—I did.

Q. Had you ever seen it before in the course of the afternoon?—I had.

Q. When you was to windward, at seven o'clock, of the vice-admiral of the blue, did you see him with the same signals out as the Victory?—I only saw the signal for bearing to the vice-admiral's wake with my signal.

Q. I would ask you, whether in the condition your ship was in, after the action, and in the morning of the 28th, you was fit to chase like a man of war, and to entangle yourself on a lee shore, on an enemy's coast, without being in imminent danger?—She was not in a condition to chase, much less to be entangled on a lee shore, on an enemy's coast.

Q. How many hours after was it, before your ship was in a condition to renew the engagement, if the admiral had thought proper so to do?—Three hours and a half.

Q. Then, sir, was it not more proper, and prudent, in the admiral, to lay to, and repair his disabled ships before he renewed the attack, than to have returned to the engagement immediately?—Assuredly it was.

Q. Then, sir, upon the whole, did it appear to you, as an old experienced officer, that admiral Keppel did, by his conduct either on the 27th or 28th of July, tarnish the honour of the British navy?—No; and I should not take upon me to say thus much, if I had not been forty years at sea, and three-and-thirty years an officer. I look upon it the admiral did much honour to, instead of tarnishing the British navy.

Tuesday, January 19.

Captain Robinson, of the Worcester was called and sworn. His examination and depositions were similar to those of the other officers; he said, that on the morning of the 27th of July, the French appeared in a straggling line of

battle; the English in the usual state of sailing ships; that he judged, as every effort had been made in vain, after the 23d, to bring the French to action, the admiral then made the signal for his ship, with others, to chase to windward, to endeavour to bring the French to action, if possible; that, if the admiral had made a signal for forming and chasing in a regular line, he could by no means have brought them to action that day.

Was then the Worcester at your command, in a condition to go down on an enemy's lee shore and begin a general engagement?—Not to go on a lee shore by any means whatever, or to chase.

The last question proposed was by admiral Montague. Upon the whole, sir, as an officer of experience, I ask you whether you think there was any thing in the conduct of admiral Keppel on the 27th and 28th of July which tarnished the honour of the British navy?—No; I have had the honour of knowing admiral Keppel many years. I always looked upon him as an exceeding good officer and a good man; and believe him so still, having no reason to alter my opinion.

Sir Hugh Palliser proceeded to call captain Bazeley, of the Formidable, who was sworn.

Captain Bazeley deposed that the ships, ordered away from the vice-admiral's division, did not leave him to go into action so well supported as the other flag officers: and that on this account, the damages the Formidable received, were much greater than they would otherwise have been. That the enemy, by forming a line to leeward, showed a disposition to renew the engagement; which the British fleet seemed to avoid. That he did not hear the Fox frigate deliver a message to the vice-admiral of the blue; but that the Fox cheered first; on which his expression to the men on the forecastle of the Formidable was, "That's hearty, my lads, now return the cheer." He said the three strange ships seen on the morning of the 28th, were not, to his observation, chased by any of the British fleet; but being asked—If the British fleet had pursued those three ships, and supposing the French fleet to have been in the same direction they steered, was there not a probability of some of our undamaged ships coming up with those three ships, or the disabled ships of the French fleet, and have taken them if the French fleet had abandoned them, or, if they had stayed by them, another engagement might have been brought on?—he replied, that being a matter of opinion, I beg leave to decline an answer. The following were the most material questions that ensued.

Q. Being the middle of summer, short nights, and moderate weather, do you apprehend it would have been attended with any imminent danger, if the British fleet had pursued that of France, for the chance of coming up with some of them, at least so far as seeing them into port, or to have made the land?—It appeared to me to be not dangerous.

Q. If you, sir, had had an engagement with a single ship at that distance from Ushant, and had beat her to occasion her to run away, do not you think you ought to pursue her till you had seen her into port, all your lower masts being standing?—In a single ship, I should not have hesitated a moment.

Admiral Montague. In the course of your evidence, you have said the chasing ships came into action separate; do you know the cause of their doing so?—The distance of them appeared to me to be by their chasing in the morning by signal. Whether they could have come into their station of line of battle after chasing, I know not.

Q. Did you, on the 27th of July, see any action of Admiral Keppel that indicated flight; or did you see the French fleet pursue us and offer us battle?—The British fleet stood upon the starboard-tack forming a line, the enemy were astern forming a line, whether that has the appearance of a flight, I beg leave to refer that to the opinion of the court.

Admiral Roddam. You said the French fleet seemed to wish to renew the action, what were your reasons for so thinking?—The French fleet forming a line to leeward of the British.

Q. You say you did not think the commander-in-chief intended to renew the action that afternoon, after hauling down the signal for battle—What were your reasons for so judging?—Standing from them, and carrying so much sail, that we could not keep up with him, or preserve our distance.

Q. Did the Formidable make any signal that you could not come up?—No.

Cross-examined by admiral Keppel.

Captain Bazeley has, on some occasions, refused giving his opinion, in others he has given it, which is not consistent; but, as he says the admiral did not wish to renew the engagement, and gives for a reason, that he carried too much sail, I now ask him, what sail the commander-in-chief did carry on the afternoon of the 27th, while standing to the southward?—I cannot particularly recollect what canvass she had; my reason for so saying was the Victory's fore-reaching the Formidable.

Q. Then inform the court how you know she carried much sail?—I mean to explain myself about much sail.

Admiral Keppel. A direct answer.

Witness. As the admiral has declared he means to examine me close, I beg leave to recollect myself. In the disabled state the Formidable was in, what I have related to the court is true, with respect to the Victory's being at that time (to the best of my recollection) under her top-sails and fore-sails.

FRIDAY, JANUARY 22.

By the continuation of captain Bazeley's cross-examination, it appeared, that the minutes of the signals, made on the 27th and 28th of July, were taken on board the Formidable by two midshipmen, who have been since appointed mates in other ships; and, on their receiving that appointment, were delivered to Mr. Perry, then another of their midshipmen, and who, being since made a lieutenant of the Triumph, at Chatham, carried them away with him from the ship; but they were not, he said, very correct, as the master had informed him. He meant they were not full enough; but no alterations or additions had been made in them.

Sir Thomas Pye observed, that the witness had said, in the course of his evidence, that in the condition of his ship, he would not have hesitated to pursue a single ship of the enemy, till he had seen her into port; he wished to know, whether his ship was then in a condition to chase an enemy upon a lee shore. Captain Bazeley replied, that he did not consider himself on a lee shore, unless he could see the land, and the wind blowing right upon it; and that, immediately after the engagement, he would have thought himself justifiable in doing so; but on the morning of the 28th, when the three French ships were in view, he should not have hesitated a moment to chase; nor did he think he should have done his duty, if he suffered the enemy to go away unpursued.

Sir Richard Bickerton, captain of the Terrible, being called next, he confirmed the signals having been made by the admiral at different times on that morning, for six ships of the blue division to chase, and their consequent separation from their flag and each other. He mentioned his own ship, the Terrible, as one of the ships that chased in consequence of those signals, and he remembered three others of them to be the Egmont, the Robuste, and the Worcester. Those signals, he thought, were the means of bringing on the engagement sooner, but prevented the ships, to which they were made, from engaging altogether at the same time, on account of their chasing from different situations, and of their different rates of sailing. He saw no particular signals afterwards made by the admiral for those ships to tack; but the witness, from his own judgment, tacked a little before the general signal was made for the whole fleet to tack. If those six ships had not been so taken from their flag, that division would certainly have come into action more connected, and in a better condition to support one another. He remembered

the Formidable coming across the Terrible whilst she was engaging the next ship ahead of the Bretagne; until which time he believed there was not any ship near enough to afford him any support, and, for fear of being aboard of the Formidable, the witness edged away astern of her. The van and centre divisions appeared to him very well connected together, and the distance he was from them, gives him reason to believe, that the commanders in those two posts, were well supported; but, the chasing ships of the blue division being extended seven or eight miles from the centre, the commander of that division was certainly not so well supported; nor was the witness able to answer, that the vice-admiral of the blue had equal support with the vice-admiral of the red, going into action, or during any part of it. From what appeared to him, he did not think the British fleet in a condition to renew the action. His own ship certainly was not; he admitted, however, that, had he been engaged with one of the enemy's ships on the same tack, the condition of the Terrible was not so bad as that he would have left the enemy, for he would have fought whilst he had steerage-way, or the least command of the ship.

Being cross-examined by the court, respecting the effects of the signal for chase in the morning, he declared, that, from the disinclination the enemy had always shown to come to action, he believed the engagement could not have been brought on, had the admiral, instead of the signal for chase, made signal for forming a line, and bore down into the vice-admiral's wake; but that, he said, must depend entirely on the will of the enemy. He said further, that it was his ship that came into action sooner than if the line had been formed.

Having said, in answer to a question from sir Hugh Palliser, that during his knowledge of the service, he never heard of an instance in which a vice-admiral had, under any circumstances, called back ships that were chasing by signal from the commander-in-chief.

Admiral Montague immediately asked him, whether, as an experienced officer, he would not have thought it his duty to tack without any signal from the admiral, under the particular circumstances of that case?

To this he replied, that he had in fact done so, and thought he had done his duty; for, conceiving the admiral's object was to bring the enemy to action at all events, he made all the sail he could, till finding the wind had shifted two points, and that our fleet was then able to bring the French to action, and that the British admiral had actually begun to engage, he thought proper to take his station in the line, and get into action as soon as he could; he thought his duty warranted him to do this, but he could not say that the vice-admiral would have been warranted in calling him from the chase into the line. He confirmed the evidence already given respecting the three French ships, which were near our fleet on the morning of the 28th, and were not pursued; though he admitted that there were some of our ships not disabled; that two of the enemy's ships appeared to be frigates, and that we had four frigates in our fleet, one of which was sheathed with copper. He was of opinion, however, that if chase had been given, there was no probability of coming up with these ships, or bringing on a general engagement.

Admiral Montague then said:—Supposing the French fleet had not run away in the night, but had continued to lie to leeward, as they did the night before, jogging on with the English fleet in a parallel line, do you not think admiral Keppel would have engaged with them in the morning? The witness answered, that he believed most heartily he would.

Admiral Montague having, in the course of this day, perceived that three leaves had been taken out of the log-book of the Formidable, containing the work of the 26th, 27th, and 28th of July, and others tacked into the book in their stead, asked captain Bazeley if he knew how that came to be done?

The captain's answer was, that he knew nothing of it—there was a fair

book made out; he ordered the old original log-book to be brought; he knew no more of it.

Admiral Keppel wanted to keep the court sitting beyond their usual time, in order to have the master of the Formidable examined upon this circumstance; but, the master not being then in the way, he was ordered to attend the next day.

SATURDAY, JANUARY 23.

Admiral Keppel having finished with this witness, sir Hugh Palliser addressed the court in these words:

"Sir, the cutting leaves out of the Formidable's log-book is a fact of which I was totally ignorant, until it was perceived by a member of this court; nor could any person be more astonished at it than myself; it is my most anxious wish to have this matter fully investigated; and, for that purpose, I have ordered the master of the Formidable, and the mate who made the entries, to attend here this morning; and, that they may be most strictly interrogated upon the matter, I desire they may be examined by the court and admiral Keppel, without any previous question from me.'

Mr. Forfar, the master of the Formidable, being then called and sworn, and his former oath read to him, respecting the originality of the log-book.

Admiral Keppel observed, that his reason for wishing to trouble the court the preceding day, when he requested the master of the Formidable might be immediately interrogated respecting that alteration, was to prevent any intermediate communication between him and others upon that subject; he therefore desired to know, who was the person who first acquainted him, that the court had discovered any extraordinary circumstance relating to the book; and whether, and with whom, he had any conversation upon that subject before the rising of the court the evening before? The witness answered, that he had heard a woman mention it to another in a shop where he had been; that it was between one and two o'clock at that time, and he immediately came to the witness's room, that he might be ready to attend the court if he should be called; that in his way, he met the master of the Foudroyant, who told him, he thought he would be wanted on that business; that he spoke to no other person till he came into the witness's room, where he saw captain Walsingham, who told him, he supposed he was come about the log-book; that he had no other conversation with any person about it, till after the court broke up, when he conversed upon it with captain Bazeley, at his lodgings, next door to the vice-admiral's; shortly after which he went to sir Hugh Palliser's house.

Sir Hugh Palliser here observed, that, in order to save the court trouble, he readily admitted that he had not only conversed with the witness the evening before on the subject, but had interrogated him very strictly indeed upon the subject.

The admiral, however, wishing, in conformity with sir Hugh Palliser's desire, to be minutely strict in his inquiries, proceeded in his interrogations; by which it appeared, that the witness had been at sir Hugh Palliser's about an hour and a half; that their conversation was in the presence of almost all the officers of the Formidable, counsellor Hargrave, and Mr. Astley, the vice-admiral's solicitor.

The work of the 25th and 26th, he said, had been copied from the log-board into the log-book, as usual; but, from the hurry of all the people on the day of action and the following day, the work of the 27th and 28th was not entered till the 30th; when perceiving that, in the two days' work already entered, he had omitted the minutes of signals taken by the two midshipmen, who had been appointed for that purpose, he took out the leaves, and entered the work again, in doing which he spilled some ink on the next blank leaf, which he also cut out on that account; and having re-entered the work of the 25th and 26th, exactly as it stood before, only with the addition

of the signals, he ruled two pages for the work of the 27th and 28th, but finding it not sufficient to fill up two pages, he put the two days' work into one page. The reason that the log-board of the 27th and 28th had not been copied sooner into the book than the 30th was, that he took it first on a sheet of paper, according to custom, in order to show it to the captain and vice-admiral, before he entered it in the log-book; that which he had so taken off was approved of by them, with some little addition respecting signals and time; the particulars of which he could not then precisely recollect; but he proved, the work, as it appeared corrected, was precisely the same as it stood then in the log-book on their table.

There had been minutes of signals taken on board before they began action, but none, that he saw afterwards, unless by recollection. There was another log-book belonging to the ship, copied from that on the table, a day or two after the engagement, and was exactly the same, except in the circumstance of three ships, whose signals were made to chase on the morning of the 28th, and soon after hauled down. This remark was not set down in the book which had been given into court, but was interlined in the other book, about the time the fleet arrived at Spithead. This interlineation was the reason of his giving in the one in preference to the other, as he could swear that the one given in was without alteration or addition; but could not say so of the book which was so interlined, though in every other respect the two books were alike and equally authentic.

The prisoner and prosecutor then mutually desiring that the other book should be also left on the table, the court assented to it accordingly.

One of the court then remarked, that, in the work of the 27th, in the log-book there was no minute of any signals but two; that for chasing in the morning, and that in the evening for ships to windward to bear down; and, upon questioning the witness with regard to this omission, he declared, that he knew of no minutes for signals being taken, except from recollection, from the time the engagement began; those two midshipmen, who used to take them, were after that time obliged to attend other duties, being the only two midshipmen to be depended on in the ship.

Sir Hugh Palliser then desired the witness should be asked, whether he knew, or had any reason to believe, that captain Bazeley, or his vice-admiral, had any knowledge of the leaves being cut out of the log-book, until that circumstance appeared the evening before on the trial.

He answered that he believed they had not.

Admiral Keppel, having done with this witness, addressed the court thus:

"*Mr. President*,—I shall ask no more questions concerning the minutes; but I cannot help expressing my surprise, that the midshipmen should take down the signals to chase, which the prosecutor dwells so much on, omitting all the others by which they were called together during the rest of the day. And I have but one more observation to make on the accuser's address to the court; his offer was intended to carry the appearance of candour, when he requested that the master might be exposed to the strictest examination by the court and me, without any previous questions by himself; whereas it now turns out, just as I expected yesterday, when he resisted my application to the court to call the master instantly, that he has been previously examined by sir Hugh Palliser and his friends."

Sir Hugh Palliser replied, "The postponing the examination of the master yesterday was the act and the proposition of the court, before I said any thing; as to my speaking to the master since, about cutting out the leaves, it was very natural that I should make an inquiry into a fact, which I was before so totally ignorant of till yesterday, and so much surprised at. I shall continue to give the court the utmost information and satisfaction on that point; and for this purpose I have sent expresses to endeavour to find the midshipman who succeeded those two that made the signal minutes, and who is now supposed to be in possession of them. He is supposed to be some-

where on board a tender in Wales, or on board some other ship; I shall take every step in my power to find him out, and obtain, if possible, the original minutes which he carried with him from the ship.

MONDAY, JANUARY 25.

Captain Goodhall of the Defiance, one of the ships belonging to the blue division, proved, in behalf of the prosecution, that when he began the engagement, there were none of our ships near enough to support him; that the Victory, after the action, passed a mile or a mile and a half beyond the enemy, before she turned about towards them again; and that the vice-admiral of the blue's division appeared to him, after that time, nearer to the enemy than the admiral's division. That the motions of the enemy, after the battle, indicated a readiness to receive an attack, but not a disposition to make one; for, if the latter had been their inclination, it certainly was in their power. He observed that the whole British fleet appeared in a condition to re-engage near the close of the day; but, for his own part, his ship was ready to make an attack again in forty minutes.

On the cross-examination of captain Goodhall, he declared, upon the whole, that there was no operation of the British fleet on the 27th or 28th of July, which had the appearance of flight; but that the French fleet did fly, and avoid the British fleet on the morning of the 28th.

Sir John Lockhart Ross, captain of the Shrewsbury, was the next witness called by the prosecutor, whose ship, being the weathermost ship of the whole fleet, had been ordered to chase at a quarter past five on the morning of the action; he gave a technical detail of the manœuvres of the enemy previous to the engagement; and, on the adjournment of the court, was ordered to attend the next morning.

TUESDAY, JANUARY 26.

After sir John Lockhart Ross had undergone some examination by sir Hugh Palliser, in the usual manner, the following summary questions were asked by admiral Montague. As most of the questions that are asked are suppositions and opinions, I beg to know, if the British fleet, when they came out of action, had received little or no damage, whether you think admiral Keppel would have renewed the action immediately?—Most certainly he would.

Q. Did you see the British fleet run away from the French, or have the appearance of flight, and did the French fleet pursue it and offer it battle on the 27th of July, so as to give the French admiral a pretence to boast of a victory?—Most assuredly at no period of time did I ever see the British fleet run away, or have the least appearance of it.

Q. Then, sir, did you see the honour of the British navy tarnished on either the 27th or 28th of July?—I did not in any respect.

Q. In the morning of the 28th, when you found the French fleet were gone, did you not look upon it they had run away from the British fleet?—Certainly, I did.

Cross-examination by admiral Keppel.

Q. Did I use every means as an officer to come up with the French fleet, and bring them to battle, from the 24th to the 27th of July?—You did, by carrying proper sail, both by night and day.

Q. If I had pursued the French fleet in line of battle, would it have been possible to have preserved our nearness to them?—You could not.

Q. Was it not in the power of the French fleet, every day, from the 24th to the 27th of July, to have brought on the action?—It certainly was; they being always to windward.

Q. If I had formed my line of battle on the morning of the 27th, do you imagine I could have brought the French fleet to battle that day?—No; be-

cause, had you made the signal for line of battle, and the weathermost ships had only bore down on the wake of the leeward-most ships, we should have been five leagues to leeward of the centre of the French fleet.

Q. At the time the French fleet were so near, and the favourable change of wind to us happened, must not the French admiral have given up some of his rear ships, if he had not risked battle with his centre?—Most certainly.

Q. Did it ever appear to you in the afternoon of the 27th, that I had given over my intent of renewing the action, if I could in time have formed my line of battle?—Certainly not; the Shrewsbury was on her station all night.

Q. You are an officer of long experience in the service; I therefore, sir, desire you to inform the court, whether you observed any instance on the 27th or 28th of July, in which I negligently performed my duty, or the trust imposed on me?—I know of none. In every respect the admiral discharged his duty, as far as I can be a judge, becoming a brave and gallant officer.

The next person called was lord Mulgrave.

After the prosecutor had finished his examination of lord Mulgrave, admiral Montague asked his lordship, if he had seen any instance of neglect of duty in the commander-in-chief on that occasion?—Upon which his lordship replied, that he had taken an oath to answer all such questions as should be asked of him; but he conceived that oath to relate to facts, not to opinions, which were naturally liable to error; he had given his evidence upon every matter that had come within his knowledge, and to the fullest of his power; but, as to his opinion on this occasion, he had ever yet declined giving it, even to his most intimate friends.

The admiral then observed, that his lordship had mistaken his meaning; he did not desire him to speak from opinion, but from what had fallen within his observation or knowledge.

Lord Mulgrave replied, that he had perfectly understood his question, if he understood the language. It imported him much, being upon his oath, to abide by his own understanding, and not by that of other people. Negligence, he said, implied criminality, and he must be equal to the duty of a commander-in-chief before he could decide upon the propriety or criminality of his conduct; the court only were competent to that task; and if the answer to that question were to be insisted upon by the court, they would not then be trying the admiral; but as a witness, he did not think himself bound to answer it; and if an individual member of the court continued to press the question upon him, he must request that the court would first withdraw to form their judgment upon its propriety; and that they would seriously take into consideration their own oath and his.

His lordship having uttered this with a degree of feeling which did not appear to be much relished by admiral Montague, the admiral began to express his displeasure by an immediate address to the witness, who quickly interrupted him with an appeal to the president, declaring that, if he was to receive a reprimand for his language or conduct, it should, according to the custom of all courts-martial, be from the whole court, but not from any individual of it.

Admiral Montague with some warmth, declared, that not only this language from the witness was extraordinary at such courts, but that indeed the whole of the trial was new.

Lord Mulgrave then observed, that the right of putting questions was not disputed by him; he had only declared, that a right of passing a censure was not in any single member, but in the court at large.

Admiral Montague grew warmer upon this; he declared he had never seen any thing like this behaviour in a witness during six-and-forty years that he had been an officer, and thirty years that he had been a captain and an admiral. He did not know what to say to it, but hoped it would have no influence on any member of the court.

The court then withdrew for nearly an hour and a half; after which, the president acquainted lord Mulgrave, that the court, upon deliberation, had come to a resolution, that the question should be again put by the judge-advocate, but left him at liberty to answer or decline it. They had also, he said, come to a resolution respecting his lordship's conduct, which the judge-advocate should read, as coming from the president, viz. "I am directed by the court to observe, that in the course of the reasoning you thought fit to offer in objection to the last question proposed to you by a member of this court, you have used language unbecoming the dignity of this court to receive, without expressing their disapprobation thereof, which I am directed to express accordingly."

Lord Mulgrave then assured the court that he had intended no offence, and that he was extremely sorry the court should misconceive him; but he was interrupted by the president, who desired the question should be again put; and his lordship still declining to answer it, admiral Montague instantly moved to adjourn, whilst his lordship was attempting to resume his observations on the censure of the court.

THURSDAY, JANUARY 28.

Sir Hugh Palliser informed the court, that with their leave, he would call on the earl of Sandwich, to exhibit and prove to the court the letters he had received from admiral Keppel, relative to the transactions of the fleet on the 27th and 28th of July. He would not have called, he said, for this mode of proof, if the admiral had not set the example. He added that, if the admiral had no objections, he would also call for the admiral's and his own private letters to lord Sandwich, relative to the transactions of the engagement. He did not know, he said, that they contained any thing to the prejudice of the admiral, but he would not desire to call for them if disagreeable to the admiral.

Lord Sandwich stated to the court, in a few words, that as he had no evidence to give but what was contained in private letters, he supposed there was no further occasion for his presence. He confessed, he said, he was pleased that the court had not called for the production of these letters, since there were some circumstances in them not proper to be published. These circumstances did not relate to the subject of accusation, or the conduct of the admiral, but were reasonings on the state of the navy, information with respect to officers, and other remarks which it might not be eligible to discover, his lordship then withdrew.

Mr. Christian, master of the Ramillies, proved: That he had been used to cruize off Brest last war; that he did not consider Ushant as a dangerous lee-shore in the situation of the wind and weather, on the morning of the 28th, and that he apprehended no danger in chasing the enemy there at that season of the year.

It appeared that two leaves had been torn out of the log-book of the Ramillies, and admiral Montague made some severe observations on this circumstance, as having rather an extraordinary appearance; but the witness swore he did not know how, when, or by whom, they were torn out, and supposed it had been done by some of the young gentlemen on board the ship.

Admiral Keppel asked no questions of this witness, as he said, "he would not condescend, as commander-in-chief, to put his conduct in competition with the judgment of a master of a man of war.

FRIDAY, JANUARY 29.

The master of the America was called in.

Q. How were the wind and weather on the morning of the 28th?—Wind about west, weather moderate.

Q. Would you have advised not to chase a flying enemy at that time for fear of making Ushant a lee-shore?—I should not be afraid of Ushant as a lee-shore until I was within three or four leagues of the land.

Q. Under what circumstances must a ship be to make Ushant a lee-shore, and what kind of weather must it be?—When a ship is between Ushant and the Seames, and the wind at W. N. W. or W. blowing a gale of wind, she must be supposed to be in great danger.

Court. Then, supposing a fleet of thirty sail, and some of them disabled, to be between Ushant and Seames, would they be in danger, supposing it moderate weather?—Not if they were three or four leagues, and could carry sail.

Sir Hugh Palliser. If one ship could be safe while carrying sail, would not thirty able to carry sail be equally safe?—I think one ship would be able to get off the land in weather when a fleet could not.

Sir Hugh Palliser. As the evidence on my part is now concluded, I beg leave that the judge-advocate may read an address of mine to the court, on the evidence that has been delivered.

Admiral Keppel. Mr. President, the evidence on the part of the prosecution being closed, I trust it is not presumption in me to declare that I do not resist the desire of the prosecutor to address the court by speech from any apprehensions of danger; but, as I have never heard or known of any such attempt in courts-martial, and such a precedent might be attended with bad consequences in other cases, I trust that my case, which in many instances is sufficiently new, will not be distinguished by any such innovations.

Sir Hugh Palliser. Mr. President, considering myself not suffered to address the court in the conclusion of my evidence for the crown, I cannot think of waiving it, but must take the opinion of the court.

The court, having retired a few minutes on this question, returned, and the judge-advocate read the resolution: "It not coming within the knowledge of any member of this court, that it has been the usage of courts-martial to receive any thing from the prosecutor on the merits of his cause, when he has declared that he closed his evidence; therefore it is resolved, that the paper now offered to the court by the prosecutor cannot be admitted."

SATURDAY, JANUARY 30.

This morning, at half-past ten o'clock, the court was resumed, and admira. Keppel delivered the following speech:—

Defence of admiral Keppel.

Sir,—After forty years spent in the service of my country, little did I think of being brought to a court-martial to answer to charges of misconduct, negligence in the performance of duty, and tarnishing the honour of the British navy. These charges, sir, have been advanced by my accuser. Whether he has succeeded in proving them, or not, the court will determine. Before he brought me to trial, it would have been candid in him to have given vent to his thoughts, and not, by a deceptious show of kindness, to lead me into the mistake of supposing a friend in the man who was my enemy in his heart, and was shortly to be my accuser. Yet, sir, after all my misconduct; after so much negligence in the performance of my duty; and after tarnishing so deeply the honour of the British navy; my accuser made no scruple to sail a second time with that man who had been the betrayer of his country! Nay, during the time that we were on shore, he corresponded with me on terms of friendship, and even in his letters he approved of what had been done, of the part which he now condemns, and of the very negligent misconduct, which has since been so offensive in his eyes!

Such behaviour, sir, on the part of my accuser, gave me little reason to apprehend an accusation from him. Nor had I any reason to suppose, that the state would criminate me. When I returned, his majesty received me with the greatest applause. Even the first lord of the admiralty gave his flattering testimony to the rectitude of my conduct, and seemed with vast sincerity to applaud my zeal for the service. Yet, in the moment of approbation, it

seems as if a scheme was concerting against my life; for, without any previous notice, five articles of a charge were exhibited against me by sir Hugh Palliser, who, most unfortunately for his cause, lay himself under an imputation for disobedience of orders at the very time when he accused me of negligence. This, to be sure, was a very ingenious mode of getting the start of me. An accusation exhibited against a commander-in-chief might draw off the public attention from a neglect of duty in an inferior officer. I could almost wish, in pity to my accuser, that appearances were not so strong against him. Before the trial commenced, I actually thought that my accuser might have some tolerable reason for his conduct. But from the evidence, even as adduced, to account for the behaviour of the honourable gentleman in the afternoon of the 27th of July, from that evidence I say, sir, I find that I was mistaken. The trial has left my accuser without excuse, and he now cuts that sort of figure which, I trust in God! all accusers of innocence will ever exhibit.

I have observed, sir, that the opinions of officers of different ranks have been taken. I trust that the court will indulge me with the liberty, in the evidence for my defence. Some have refused to give their opinions. I thought it strange, as plain speaking, and a full declaration, are the best of evidences in a good cause.

I would wish, sir, the court to consider, that in all great naval, as well as military operations, unless the design be fully known, the several manœuvres may have a strange appearance. Masters have been called to give their opinions on the higher departments of command. Higher authorities should have been taken. Such authorities are not scarce, for I am happy to say there never was a country served by naval officers of more bravery, skill, and gallantry, than England can boast at present. As to this court, I entreat you, gentlemen, who compose it, to recollect, that you sit here as a court of honour, as well as a court of justice, and I now stand before you, not merely to save my life, but for a purpose of infinitely greater moment—to clear my fame.

My accuser, sir, has been not a little mistaken in his notions of the duty of a commander-in-chief, or he never would have accused me in the manner he has done. During action, subordinate officers either are, or they ought to be, too attentive to their own duty to observe the manœuvres of others. In general engagements, it is scarcely possible for the same objects to appear in the same point of view to the commanders of two different ships. The point of sight may be different. Clouds of smoke may obstruct the view. Hence will arise the difference in the opinions of officers, as to this or that manœuvre, without any intentional partiality. Whether I have conceived objects in exact correspondence with the truth; whether I have viewed them unskilfully (or, as my accuser has been pleased to term it, unofficer-like), these are matters which remain to be determined. I can only say, that what sir Hugh Palliser has imputed to me as negligence, was the effect of deliberation and choice. I will add, that I was not confined in my powers when I sailed; I had ample discretion to act as I thought proper for the defence of the kingdom. I manœuvered; I fought; I returned; I did my best. If my abilities were not equal to the task, I have the consolation to think, that I did not solicit, nor did I bargain for the command. More than two years ago, in the month of November, 1776, I received a letter from the first lord of the marine department, wherein he observed, that, owing to motions of foreign courts, it might be necessary to prepare a fleet of observation. My reply to this letter was: That I was ready to receive any command from his majesty, and I begged to have the honour of an audience. This request was complied with. I was closeted, and I told the king, I was willing to serve him as long as my health would permit. I heard no more till the month of March, 1778, at which time I had two or three audiences, and I told his majesty, that I had no acquaintance with his ministers, but I trusted to his protection and zeal for the public good. Here were no sinister views; no paltry gratifi

cations; I had nothing, I felt nothing but an earnest desire to serve my country. I even accepted the command-in-chief with reluctance. I was apprehensive of not being supported at home. I foresaw that, the higher the command, the more liable was I to be ruined in my reputation. Even my misfortunes, if I had any, might be construed into crimes. During forty years service, I have not received any particular mark of favour from the crown. I have only been honoured with the confidence of my sovereign, in times of public danger. Neither my deficiencies, nor my misconduct, were ever before brought forward to the public. And it is now somewhat strange that, so well acquainted as my accuser must have been with my deficient abilities, it is strange, I say, sir, that he should be the very person who brought me the message to take the command upon me! Nay, further, sir, he brought me that message with great seeming pleasure! There was or there was not reason, at that time, to doubt my ability. If there was reason, how could my accuser wish me to accept a command, for which I was disqualified? If there was not any reason to doubt my professional abilities sixteen months ago, I have given no reason why they should since be called in question. When I returned from the expedition, I did not complain of any thing. I endeavoured to stop all murmurings. I even trusted the first lord of the admiralty in the same manner as I would have done my most intimate friend. This might be imprudent. It might be dangerous. But, sir, I am by nature open and unguarded, and little did I expect that traps would be artfully laid to endeavour to catch me on the authority of my own words.

It was in the month of March, 1778, that I was told a fleet lay ready for me to command. When I reached Portsmouth, I saw six ships ready, and, on viewing even those, with a seaman's eye, I was not by any means pleased with their condition. Before I quitted Portsmouth, four or five more were ready, and I will do the persons in office the justice to say, that from that time they used their utmost diligence in getting the fleet ready for service.

On the 20th of June, I sailed with twenty ships of the line, and very fortunately I fell in with the Belle Poule and other French frigates, and the letters and papers found on board them were of material service to the state. Captain Marshall distinguished himself with the greatest honour. I confess that when I fell in with those frigates I was at a loss how to act. On the one hand, I conceived the incident to be favourable to my country; and on the other, I was fearful that a war with France and all its consequences might be laid to my charge. For any thing I can tell this may be the case. It may be treasured up to furnish another matter for future accusation. To this hour I have neither received official approbation nor censure for my conduct. With twenty ships of the line I sailed. Thirty-two ships of the line lay in Brest Water, besides an incredible number of frigates. Was I to seek an engagement with a superior force? I never did, nor shall I ever fear to engage a force superior to the one I then commanded or that I may hereafter command. But I well know what men and ships can do, and if the fleet I commanded had been destroyed, we must have left the French masters of the sea. To refit a fleet requires time. From the situation of affairs, naval stores are not very soon supplied. Never did I experience so deep a melancholy as when I found myself forced to turn my back on France! I quitted my station, and my courage was never put to so severe a trial.

I was permitted to sail a second time, without receiving official praise or blame for the part I had acted. These were discouraging circumstances But they did not disturb my temper. My principal object was to get ready for sea with all possible haste. I was surprised on my return to be threatened with the fate of admiral Byng, and I was still more surprised to be charged with cowardice.

With thirty ships of the line I sailed early in July. The French admiral sailed from Brest with thirty-two ships. I believe that when the fleets came in sight of each other, the French were not a little surprised to see me so

strong. I desire not to throw the slightest imputation on the courage of the French admiral. I believe him to be a brave man, and one who had some particular reasons for the line of conduct he pursued. I was determined, if possible, to bring the French to battle, as I had every reason to think that their having avoided an engagement, when it was for four days in their power to attack me, was owing to their expecting some capital reinforcements. I therefore thought that the sooner I could engage them the better; especially as I knew that the principal fleets of our trade were daily expected in the channel, and, if the French fleets had been permitted to disperse without an action, our East and West India fleets might have been intercepted, the convoys might have been cut off, and the stake of England might have been lost. I beg leave to mention, that in the reign of king William, the gallant admiral Russel was two months in sight of a French fleet, and he could not possibly bring them to action. My being in sight of the French fleet four days before the engagement, will not therefore appear quite so extraordinary as it has been represented. Had it not been for the favourable change of wind on the morning of the 27th of July, I could not have brought the French to action when I did.

I am exceedingly sorry, sir, that the admiralty have refused me the liberty of producing my instructions. In all former courts-martial, the instructions and orders have been sent with the charge to the members of the court. As it has been denied in this instance, I must and do submit.

Although on the 27th of July I fought and beat my enemy, and compelled him to take shelter by returning into port, yet the effort did by no means answer my wishes. I rushed on to re-attack the enemy. Why I did not accomplish my design will be seen in the evidence I shall produce. I might, it is true, have chased the three ships which were visible on the morning of the 28th of July, but with very little prospect of success. I therefore chose to return to Plymouth with my shattered fleet, to get ready for sea again, not, however, forgetting to leave two ships of the line to cruise for the protection of our trading fleets, which, thank God! all arrived safe.

On my return, sir, I most cautiously avoided to utter a syllable of complaint, because it might have suspended our naval operations, which at that time would have been highly dangerous. I could not think of attending to a court-martial, when greater objects were in view.

With respect to the second edition of the Formidable's log-book, it appears to have been fabricated rather for the purpose of exculpating the prosecutor, than to criminate me. I shall therefore pass it over, and permit the gentleman to make the most of such an exculpation. I cannot, however, be so civil to the alterations and additions in the log-book of the Robuste. Captain Hood's conduct must have struck the court, as I believe it did every person, except the prosecutor, with astonishment.

A great stress, sir, has been laid on my letter to the admiralty. There is a passage in it where I seemed to approve the conduct of every officer in the fleet. The court will observe, that I was not in my letter to inform all Europe, that a vice-admiral under my command had been guilty of neglect, whilst there remained a possibility of excuse for his conduct. As to courts-martial, one very bad consequence will, I am sure, result from this trial: it will terrify a commander-in-chief from accepting a commission, if he should be liable to be brought to trial by every subordinate officer.

As I have touched on my letters, I will just observe, sir, that the most disagreeable task that I ever experienced, was that of writing my letter of the 30th of July. However, if I writ ill, I am confident that I fought well, and the desertion of the trade of France was evident from the number of rich captures which are made: a number far exceeding any thing ever known in so short a period! his majesty noticed this in a speech from the throne.

Monday, February 1.

The first witness called by admiral Keppel was sir Robert Harland, vice-admiral of the red, whose evidence went to show, that the French fleet, for three days, successively, had it in their option to give ours battle; but constantly declined it, their intention not being to engage, unless they should be forced to it; that their manœuvre early on the morning of the 27th indicated an equal disposition for declining an engagement; until after a squall, which had frequently obscured them from the British fleet, they tacked unexpectedly, and began firing upon our ships. The admiral had been pursuing them all the time that they stood in sight with as great a press of sail as he could carry, consistently with his attention to the worst sailing ships in the fleet; and did every thing in his power to come up with them.

He declared the admiral could not have kept so near the enemy as he did, if he had pursued them in a line of battle; and had the signal for it been made on the morning of the 28th, there would have been little probability of an engagement that day, unless the enemy had thought proper to come to us.

The admiral desired to know of sir Robert Harland as a flag officer, 'If a signal for chase had been made by a commander-in-chief to ships of his division to chase to the windward, and that commander being engaged with his ship at a great distance, whether he would not think himself warranted to call in those ships upon any momentary occasion which he might see of employing them for the general service?—To which sir Robert replied, 'That he should always have been happy in assisting the admiral, or rendering service to the fleet, whilst he had any command in it; and under the circumstances described he would have thought himself warranted to do so.

With respect to the enemy's regularity, he said, that in passing their line he perceived their van was not well connected with their centre, nor their centre with their rear; he saw six ships in particular out of their station, but they were, however, in a close well connected body.

When he saw the Formidable coming out of the cannonade he did not perceive any imminent danger of her being cut off. Sir Robert had then seven ships at most of his division with him, and, if the signal for re-attacking the enemy had been made, the admiral certainly had not ships enough to support him. The French did not appear to be then in any confusion, but were forming in a well-regulated line, which it was no more in the admiral's power to prevent, than it was in his power to collect his ships together for that purpose. Had the signal alluded to been then made, the consequence would have been—"That he would have obeyed it; and if the French did not take him, and his whole division, they would have deserved to have been hanged."

During the whole of the afternoon the admiral was doing his endeavours to get his line formed, and after the fleet wore to the southward the witness received orders by the Proserpine frigate for his division to take the station of the blue division in the admiral's wake, which he was going to do at the same time at his own risk; judging it absolutely necessary to put himself in that situation, as he saw the commander-in-chief then unsupported, and within the power of the whole French force astern of him; but, if the vice-admiral of the blue had come into his station whilst he was occupying it, he would have quitted the rear and returned to the van without orders, it being plain that no orders could be sent him for that purpose; but he would much rather have had orders to do so.

It was after five o'clock when he was ordered back into his own station. The signal for the line was flying on board the admiral during the whole afternoon, except for ten minutes, when it was hauled down to make another signal more discernible. Before the night came on the admiral had not, at any one time, the means of re-attacking; and, if his line had been formed, he made no doubt of his intention to engage the enemy again.

Being asked if the relative situation of the two fleets when sailing in parallel directions to the southward, and the British fleet ahead, gave any appearance of our flying from the enemy?—he answered—"O fy! No!"

During the afternoon the Victory carried but an easy sail, and the sail kept his division in their station during the night. He carried his distinguishing lights all the night in the Queen, as he always did; and he could see the admiral's distinguishing lights very clearly upon his bowsprit end.

The French fleet, he said, made their escape in the night; and early in the morning the body of them was just visible, at intervals, from his mast-head, steering to the south-east; but, conditioned as our fleet was, he thought there was little probability of our coming up with them if pursuit had been made.

The admiral then desired he would acquaint the court with any instance of negligence in the commander-in-chief, which came under his observation; but Sir Robert said, that was impossible, "as he knew of none." Sir Hugh Palliser then declaring that he had no questions to put to the vice-admiral, he withdrew.

Mr. Moore, purser of the Victory, having been appointed by the admiral to minute the signals, was next examined; and his evidence was given in a very clear and distinct manner. The substance of it was, that the French fleet, by his observations, did not appear to be very regular in their line, on the morning of the action, or as our fleet passed along their fire. That after the Victory passed them she wore immediately, and stood back to the enemy. That when some of the French fleet stood towards ours, after that time, they pointed to our disabled ships only; and he mentioned an expression made to him at the time by the admiral Keppel, who said, "he believed the French meant to affront him, by making an attack upon that part of the fleet which remained to leeward." He declared that at five o'clock the vice-admiral of the red was ordered out of the station of the vice-admiral of the blue, and the orders were obeyed; that there remained no ship astern of the Victory except the Foudroyant; that the general signal for the blue division was then flying, notwithstanding which the vice-admiral of the blue, instead of obeying it, kept his wind, which operated to a contrary movement, although the witness had heard the admiral send verbal orders by captain Windsor, "that he should bear down, for the admiral only waited for him and his division to renew the action."

At seven o'clock the particular signal of each ship that was with the vice-admiral, except that of his own ship, was thrown out on board the Victory, and the signal for the line was not hauled down even when night came on. The Formidable's distance from the Victory was about three miles; he saw her repeat the signal for ships to come into the admiral's wake, but when she passed the Victory, or at the other time that afternoon, he never saw her repeat the signal for the line.

When the three French ships appeared in the morning, signals were made on board the Victory, for the Elizabeth, Prince George, Duke, and Bienfaisant, to chase, but the Elizabeth informed the admiral that she could not carry sail; and it was visible the Prince George could not make sail as a ship in chase should.

Sir Hugh Palliser only asked this witness, "Whether he undertook to swear positively, that the Formidable did not repeat the signal for the line of battle?—or, that she had not the signal flying when she passed the Victory?" He answered that "he could only swear he did not see it."

Mr. Rogers, admiral Keppel's secretary, was then called, who confirmed the evidence of the former witness, and particularly observed, that it was but five o'clock when the Fox was despatched to the Formidable with the admiral's message; and that captain Windsor approached so near to her, as to have his sails becalmed.

He also declared, that, in penning the letter upon that affair, the admiral

and himself had much trouble in wording it so as to relate facts, without conveying any censure upon sir Hugh Palliser; a man whom the admiral condered as his friend, and of whose courage he had no doubt.

On his cross-examination it appeared, that he had made no note of the time when captain Windsor delivered the message, but he said it was so immediately that he did not think it necessary to note it; he allowed, however, that it was usual to note when any ships were spoke to.

WEDNESDAY, FEBRUARY 3D.

Sir John Lindsey proved, that early on the morning of the engagement, the enemy showed no greater disposition to engage than before; and, if the admiral had formed the line instead of making the signals for chase, the enemy might have escaped; and there would not have been a shot exchanged that day.

The signals for chase were rather calculated to make the chasing ships close with the centre, than to scatter the fleet; and, if they had not been made, it was probable no part of the blue division could have got into the action.

The attack upon the enemy was very sudden and unexpected; he had but just time to cut his long boat from his side when the firing began; and for the admiral to have attempted forming a line at that critical moment would have been attended with very fatal consequences. So that there was no alternative, the admiral must have fought without a line of battle, or not have come to action. It was a fight very animating; it was bold, daring, and perfectly consistent with the character of a British seaman, to assert his superiority over an enemy he was accustomed to beat, and the effect justified the measure; it threw the enemy into such confusion to see the two admirals engaged (which would not have happened had they been in their stations in the line of battle) that the witness had an opportunity of firing upon three at once of the enemy's ships that were abreast of one another.

Upon the charge against the admiral of standing from the enemy when they offered him battle, sir John Lindsey said, after the enemy had drawn out their line, they pointed their whole force against the centre, but sir Robert Harland threw his division between them and the admiral, which obliged them to change their object, and point to our disabled ships. To assist those the admiral changed his tack, and made such sail as was necessary to cover them, yet sufficiently easy, in his opinion, to admit of ships out of their stations to get into them; but there was nothing in those manœuvres which, in his mind, could carry an indication or appearance of flight.

With regard to the propriety of pursuing the French on the 28th, there was very little probability of our being able to come up with them in the crippled condition of our fleet, and that there would have been some danger in attempting a lee-shore; and concluded his evidence with a declaration, that he had seen no instance of neglect in the admiral, because, he said, he had fulfilled his duty in every particular. He had the honour of serving under the admiral last war, and had such strong proofs of his bravery, ability, and knowledge in the profession, as pointed him out to him as one of the greatest sea officers his country ever produced; and the whole of his conduct on his late command had further convinced him that his former opinion was just.

Sir Hugh Palliser cross-examined sir John Lindsey, who admitted, that if the ships which had been ordered to chase before the engagement had not been separated from the vice-admiral, they would have been better able to support one another, and would have received less damage in action had they been able to get into it; but several of them were so far to leeward that they could not have had the advantage of the change of wind to get into action.

He was asked if he thought the admiral intended to renew the engagement at seven or eight o'clock in the evening, and risk a night battle, especially with the ships that came out of action last, which were much disabled, in preference to those ships that were not so much damaged He answered,

when I got into my station I think he did; I cannot speak to seven or eight o'clock. I should suppose he would not at that time.

THURSDAY, FEBRUARY 4.

Captain La Forey, of the Ocean, proved, that the French for three days before the action studiously avoided an engagement, whilst the English admiral did every thing in his power to bring it on; and yet that the situation of the enemy's fleet with respect to wind and weather, &c. was such, during the whole time, that had it been under the command of the witness, he should not have thought himself justified in not bearing down upon the other fleet at any period of those three days. The Ocean, he said, engaged next to the Formidable, and was but a little way from her when the firing ceased; but he saw no particular danger she was in of being cut off by the enemy. They passed her upon a different tack; none of them stopped to engage her; nor did he see any of them return towards her.

He saw no efforts made by the vice-admiral of the blue to obey the signal for bearing down; and he was of opinion that, if he had obeyed about five or six o'clock, there would have been daylight enough for us to have renewed the action; and he saw no other impediment to our having done so.

If the French fleet had been disposed to attack us that afternoon, they had it amply in their power; and, if the admiral had given chase next morning towards Ushant, there was not the least probability of coming up with the enemy.

He knew of no neglect in the commander-in-chief; he was convinced at that time he had left no means untried to bring on, continue, or renew the action; and he had remained invariably ever since in the same sentiments.

Upon his cross examination he said, that he engaged between the Formidable and the Egmont; he was twice in danger of being aboard of them, and had much to do to keep his fire clear of them, particularly of the Egmont; so much indeed, that he was obliged to back some of his sails to avoid exposing her to his fire.

He remembered that sir Hugh Palliser had backed his mizen-topsail, to let the Ocean shoot ahead of him, going into action; and also it remained so in the engagement; but he could not say that the motive for his doing so was to let the ship astern of him come up. In fact, he attributed it to an act of gallantry in sir Hugh Palliser, in the desire to give the French as much of his fire as he could, in passing them.

The vice-admiral then desiring to know from captain La Forey how many ships of the blue division remained with their flag, when seven ships, as had been proved by the purser of the Victory, had been ordered to make chase, on the morning of the engagement; admiral Keppel objected to the prosecutor's right of questioning the witness, upon a cross-examination, touching any matters on which he had not been before examined.

The court deliberated upon this subject, and determined that the question ought not to be put.

The witness afterwards proved, that his ship was fit to renew the action immediately after she wore, had the signal for engaging been kept flying; for, except some injuries received in the rigging, &c. he had hardly been warmed; two frigates alongside of one another so long would have done each other more damage than the Ocean had received in the action.

The hon. captain Walsingham of the Thunderer, was examined exactly to the same points, and gave substantially the same evidence; but he more particularly and pointedly laid our not renewing the battle to the charge of the vice-admiral. When he was asked, if the manœuvres of our fleet, after the action, had the appearance of a flight? he expressed his indignation at the question, and his abhorrence at the idea; and, so far from observing any neglect in the admiral, he declared that he had always been taught to look up to him as an officer of the greatest courage and good conduct; yet,

prejudiced as he was in his favour, the admiral's behaviour in the late action, in which the witness had the honour of serving under him, surpassed even his most sanguine expectation.

FRIDAY, FEBRUARY 5.

Captain Walsingham, on his cross-examination, said, that the division of the red did not quit the station belonging to that of the blue, after the action, till five o'clock in the afternoon; and, when his ship had come out of the fire, he got into the stern gallery, from whence he took particular observation of sir Hugh Palliser's ship, which then remained in action, and he felt the greatest satisfaction at the manner in which he saw her engage; it was such as did infinite honour to her officers and men.

Captain M'Bride of the Bienfaisent, was called next; and, as a further proof that the French had no intention of fighting, if they could avoid it, he proved he went on board the Victory on the 24th in a small open cutter to acquaint the admiral that he observed three of the enemy's ships which were crippled, and three leagues behind the body of the fleet; that there were two more of their ships still further behind them, and that he made no doubt, but by making sail, we should be able to cut off the two hindmost, or bring the enemy to action, if they meant to support them; in consequence he received orders with captain Maitland to make sail and attack those two ships, and not to return without a particular signal, though the signal for the line should be made. Soon after the admiral ordered a general chase, and it was very clear, that if the French meant to engage us, they would have done it then, sooner than suffer us to separate two of their capital ships from them. The weather could be no impediment to their engaging, as they certainly could fight their lower deck guns, if he was able to sail in an open boat.

Being asked if he had commanded the French fleet at that time, would he have hesitated to engage the enemy under similar circumstances? He answered, that if he had hesitated to do so, he deserved never to set his foot in this country again. The operations of our fleet, which were charged to have had the appearance of flight, struck him then as the well-timed manœuvres of a judicious officer; and the only means that could be adopted at the time to collect the fleet, which were in the greatest confusion from the damages they had received in their sails and rigging, and to protect the disabled ships from the attack then meditating upon them by the enemy; and, even as we were at that time, the French had it so much in their power to attack us with advantage, that, had our fleet been situated and conditioned as theirs was, and theirs as our fleet was, if we had not demolished them we ought to have been sent on board the Justitia ballast lighter.

He attributed the admiral's not renewing the action to no other cause but the vice-admiral's not bearing down with his division; which, if he had done, even so late as six o'clock in the evening, he thought there would still have been daylight enough to have it determined before night, whether the enemy would wish to fight or run away.

He perceived no lights or signals in the French fleet on the night of the 27th till between ten and eleven o'clock, when a rocket was thrown up in the rear; after which, every half hour, or oftener, a light was shown, and a flash like that of a musket, from three ships that were left at certain distances to represent the French fleet.

His signal, and the signal of the other three ships, were made at daylight to chase the ships. What effect could be expected from the chase he could not possibly say, as he was called in again before he had got steady enough under his sail to be able to form any judgment on that point; he presumed, however, that the admiral's motive for calling him in so suddenly was from finding there were no ships to back him, and that, therefore, he must have been left with the whole three; and, as to a general chase of the whole fleet, he saw little probability of coming up with the body of the enemy's fleet,

even if none of our ships had been crippled, as the enemy had got so far the start of us, and we being within twenty-one leagues off Ushant, half of our ships having foul bottoms, and the enemy's ships, he believed, much cleaner.

Throughout the whole of the admiral's conduct he saw no instance, he said, of neglect; on the contrary, it appeared to him that he realized on those days the favourable opinion which his country had formed of him.

Captain Jervis, of the Foudroyant, was examined to each of the different objects of the charge, and expressed his approbation of the admiral's conduct in every particular. When the admiral, at the conclusion of his examination, desired he would point out any instance of neglect he had been able to perceive in the commander-in-chief, at any time, upon that occasion; from an obvious point of delicacy, he requested that the question should be put to him by the court; and then delivered his answer in these words:

"I think myself bound by the oath I have taken to answer that question. I believe it is consonant with the practice of marine courts-martial; I cannot boast of a long acquaintance with admiral Keppel; I never had the honour to serve under him before, but am happy in this opportunity to declare to the court, and to all the world, that, during the whole time the English fleet was in sight of the French fleet, he displayed the greatest naval skill and ability; and the boldest enterprise, on the 27th of July, which, with the promptitude and obedience of vice-admiral sir Robert Harland, will be subjects for my admiration and imitation as long as I live."

Saturday, February 6.

On the cross-examination of captain Jervis, respecting the evidence he had given, that the French constantly avoided an action before the favourable shift of wind for us on the 27th of July; he admitted that they had made a manœuvre that morning, before the wind shifted, which necessarily gave our fleet an opportunity of coming nearer to them.

Having mentioned in the detail of his evidence, that, after the action the French fleet were actually facing us, when our fleet turned the other way, sir Hugh Palliser desired to know, did captain Jarvis ever before hear or know of a British fleet turning their stern on an enemy of equal or inferior force, immediately after an engagement, whilst that enemy was standing towards them, and offering them battle? The witness denied the fact in all its positions; but sir Hugh desiring to know whether he had not said, in his evidence, that, whilst the English fleet was standing to the southward, the French fleet might have fetched them, and whether in that case our sterns must not have been towards them? The captain refused to give a direct answer, saying, that he had explained it the day before, in answer to admiral Keppel's question, and he would give no further answer to it, unless ordered to do so by the court; sir Hugh Palliser said, he would not insist upon any answer but what was consistent with captain Jervis's inclination to give.

Having before declared that the admiral's object for standing so to the southward was to cover five ships of our fleet, which were disabled, sir Hugh Palliser laid a stress on that, to prove that his division had been materially injured by the unsupported manner in which they were forced to engage, and asked, if three or four out of those five disabled ships were not of his division? When the witness replied, that he did not know so at the time, but he understood so since, and believed they were part of sir Hugh's division.

He allowed that the Formidable had received great damage; but not more, he said, than his own ship had received; but acknowledged he had not lost near so many men.

Having before stated that it would have been improper or dangerous to have ordered sir Robert Harland's division to double upon the enemy, whilst the admiral advanced himself with the rest of the fleet to renew the attack immediately after passing the enemy's line, as the admiral had not been able so soon to collect the ships, and form a line to support him; sir Hugh desired

to know, why it should be thought more necessary for the fleet to be in the line of battle at that particular time, than at the time the action began, when it was contended to be proper to engage without that regularity? To this captain Jervis refused to give a direct answer. The charge, he said, only stated that the admiral did not collect his force, and return to the action; he would, therefore, give no other answer than that the admiral made the most proper signal to collect the ships for that purpose; and sir Hugh declined pressing the question any further.

MONDAY, FEBRUARY 8.

The admiral called the hon. Lieutenant Lumley, of the Robuste, to ascertain the alteration made in that ship's log-book. The judge-advocate took the original book, and the witness the other, and compared them; many alterations were apparently made, but the most material was in the book delivered in by the master of the Robuste: it says, at six o'clock bore down into our station in the line, which we kept all night as well as a disabled ship could do, the admiral making much sail. The book of lieutenant Lumley, and which he swore was an exact copy of the original before the new leaf was put in, says, at six o'clock tacked and bore down into our station in the line, and no mention was made of carrying much sail. Another material alteration was, the original book mentioned, that on the morning of the 27th the admiral made a signal for the blue squadron to chase; whereas the alteration made it for six or seven ships only, upon which sir Hugh Palliser grounds one of his articles, that he was left to go into action with only three or four ships.

Mr. Arnold, master of the ship, was also called, to prove that the alterations were made by the captain's order; and, upon his cross-examination, he acquainted the court, that when they were made, captain Hood made this observation—that he only wished the log-book to be correct; and that, turning to him, and the first lieutenant, he said, he supposed they could attest this; when the witness answered he could—meaning, he said, only such part of them as fell within his observation; but not having been upon deck during the night after the engagement, he did not venture to attest that part of it which related to the sail made by the admiral.

The admiral then addressed the court, and made a few observations on the alterations: "Mr. Hood, in justification of his conduct in making those alterations, says, that he made them in his own protection, not knowing but he might have been brought to this bar a prisoner instead of an evidence. I cannot see how captain Hood can reconcile the alterations he has made to this pretext. How, sir, could the signal for chasing in the morning benefit him, if made for several ships of the division, rather than for all the division? How much less that the three ships, in the morning of the 28th, were near rather than far distant? He could not possibly be affected by the escape of three ships, nor could any guilt arise in him from their being chased or not chased. These are points, however, contained in my accuser's charge, but, as they do not affect me, I will not insist upon them. But the one which remains behind tending directly to affect my life, and, what ought to be dearer to every British seaman, my honour, I must beg leave to take notice of it; more particularly as it cannot tend, in the smallest degree, to have exculpated him, had he, as he says, been brought to your bar. Had the Robuste fallen astern, indeed, there might have been some advantage in asserting that the admiral made much sail. But, instead of his being found out of his station astern, it has come out in proof, that in the space of a short night he stretched ahead of his station several miles. It is, therefore, too evident that the alteration was made to support the charge of my accusers. Their intimacy, their connexion, tends to corroborate this suspicion. I feel most sensibly for captain Hood in this case; that the man with whom I lived in familiarity and friendship, and of whose bravery and merit, as an officer, I am well con-

vinced, should have been seduced by any party or persuasion to have deviated so far from that honourable line of conduct which British seamen ought to pursue, hurts me more than that aimed at me. And I hope it will be believed after this, that I have not investigated the point for the sake of myself so much as for the security of the service."

THURSDAY, FEBRUARY 11.

The proceedings of the court-martial concluded this day, by honourably acquitting admiral Keppel; the court unanimously deciding that the charge exhibited against him was malicious and ill-founded; it having appeared that the said admiral, so far from having by misconduct and neglect of duty on the days alluded to, lost an opportunity of rendering an essential service to the state, and thereby tarnishing the honour of the British navy, behaved himself as became a judicious, brave, and experienced officer.

The court do, therefore, unanimously and honourably acquit the said admiral Augustus Keppel of the several articles contained in the charge exhibited against him; and he is hereby fully and honourably acquitted accordingly.

The president then addressed himself to the admiral in the following words, delivering to him his sword at the same time:—

"*Admiral Keppel*,—It is no small pleasure to me to receive the commands of the court I have the honour to preside at, that in delivering to you your sword, I am to congratulate you on its being restored to you with so much honour, hoping ere long you will be called forth by your sovereign to show it once more in the defence of your country."

The concourse of people that surrounded the court was immense. As soon as the sentence was pronounced, an acclamation of joy burst forth in repeated peals, which was immediately communicated to the crowd without, and soon became general through the town, and the whole nation by general illuminations, &c.

SIR HUGH PALLISER,

VICE-ADMIRAL OF THE BLUE, AT PORTSMOUTH, 1779.

MONDAY, April 12th, at nine o'clock a signal was made in the Sandwich, for the court-martial.

Vice-admiral sir Hugh Palliser soon came on board, attended by captain Bazeley, and several other officers. The court soon after began to sit, when Mr. Jackson, the judge-advocate, read the commission from the board of admiralty for trying the prisoner, which sets forth:—

"That as there appeared several circumstances, in the minutes of the trial of admiral Keppel, of a criminating nature against vice-admiral sir Hugh Palliser, which required a very serious investigation, they direct the court-martial to inquire into those circumstances.

(Signed) "SANDWICH, LISBURNE,
"J. BULLER, MULGRAVE."

The names of the witnesses summoned for the crown, as well as in behalf of the prisoner, were called over by the judge-advocate, when sir John Lindsey was excused attending on account of his ill state of health. After this admiral Keppel was called upon as the first evidence, when he addressed himself to the court as follows:—

" *Mr. President*,—Before I take the oath, may I beg to be allowed to say a word or two. I stand in a very painful situation, and the evidence that is to be given, I hope, will never go into the world, as carrying rancour or revenge from me against the gentleman you are about to try;—the evidence which I shall give shall be to the best of my recollection;—I cannot say to the questions that will be asked me, only yes, or no, as a witness ought to do; they are so intermixed with the business of the day, they will carry my thoughts of that business along with it; and under these circumstances I wish not to be examined at all."

The court was cleared. On the admission of the evidence, the president thus expressed himself:—"The court is of opinion that it is not in their power to excuse admiral Keppel, but will be glad to give him as little trouble as possible."

Admiral Keppel. I am under the direction of the court.—He was then sworn.

The judge-advocate then proposed his questions from papers in his hands; and from admiral Keppel's replies the following information arose; that the blue division consisted of ten ships when the enemy was first in sight; that admiral Campbell, as first captain, had general directions to call in and bring up, at all times, those ships which were at improper distances; that accordingly in the morning of the 27th of July, admiral Campbell ordered six or seven of the vice-admiral of the blue's division, which were under too easy a sail, to chase to windward; on which the Formidable, as well as the other ships, did all in their power to come into action, and the vice-admiral, during the engagement, did his duty as a flag-officer.

Tuesday, April 13.

At ten o'clock the court met again, and admiral Keppel's examination was continued.

When you came out of action, having passed the rear of the French did you make any signals?—After I passed the rear of the fleet, my first duty, as commander, was to look where the ships were; as soon as I could perceive the fleet for smoke, I saw the vice-admiral of the red trying to weather me; his conduct warmed me, he was acting like a man; the other ships looked to me as if they had received damage; but, no masts or yards being down, it naturally occurred to me to make the signal for wearing; that wearing was to lay their heads to the enemy; the Victory was not in a condition to do so immediately: but did soon after; and then I made the signal for the line of battle ahead—the court will think that I cannot be particular as to the moment of signals. At that time the ships of the vice-admiral of the blue passed me, the Formidable passing last, although their station was ahead on that tack; their reason, no doubt, was that their rigging was hurt. When I wore to the enemy, I thought it would be a proud day for England; but I blame nobody. The red division wanted the least; the centre, more; and the rear division most time to repair, in proportion to the times they came out of action. I therefore made signal to wear again, and all those wore in the space of thirty or forty minutes. I beg to refer the court to those officers that took minutes.

Q. Did it appear to you that the vice-admiral of the blue, in the Formidable, was not in condition and ability to obey the signals?—Undoubtedly it did not. I saw no greater disability in the Formidable than there was in the Victory; less, indeed, for the Victory was obliged to unbend her main topsail. I saw no disability whatever in the Formidable at that time.

Q. Did the Formidable bear down in obedience to those orders?—Never.

Q. Was the Formidable's situation such as to be able to see those signals either from the Victory or Arethusa?—Most undoubtedly; she could not fail seeing them.

WEDNESDAY, APRIL 14.

Admiral Keppel's examination continued.

Q. Do you know of any circumstance in the conduct of sir Hugh Palliser on the 27th or 28th of July, other than what you have already stated to the court, which you think criminal, and which the court, in your opinion, ought to be acquainted with?—To speak in general terms, the conduct of sir Hugh Palliser, I have said, in going along the French line, has had my praise. He acted as well as any that either went before or after him. He had my full praise; and that praise which I gave him to the admiralty has been made use of in the world against me. After the action I have spoken to his conduct, but I declare I cannot say positively what parts I have spoken to, and what have been omitted. In general, I must say that I protest I cannot charge my memory that sir Hugh Palliser obeyed any one signal or order that I issued. If the prisoner in his questions should press any point wherein he did his duty, and should by that means refresh my memory, I am sure I should be most ready to do him every justice, and give him every praise consistent with strict truth. After it was dark I saw nothing, and knew nothing of the vice-admiral of the blue. Therefore, neither at that time nor on the 28th of July, can I say any thing of his conduct from my own knowledge.

Admiral Campbell, the next evidence, being sworn, the court proceeded:

Q. Did it appear to you that during the action he behaved becoming an officer of his rank and station in the fleet?—I believe he did every thing he ought to do when in action.

Being asked as to the signals made after the action, and what obedience the Formidable shewed to them; he affirmed that the Formidable neither repeated nor obeyed the signal for the line of battle during the whole day.

Q. What other means were made use of to convey orders to the vice-admiral?—The Fox was sent with directions for him and the ships of his division instantly to bear down into his wake, as the admiral only waited for him and the ships of his division to renew the action.

Q. At what time did it appear to you that the Fox reached the Formidable?—I hailed the Fox about five o'clock or near that time, I suppose she joined the Formidable in about half an hour.

Q. Did the Formidable obey the orders sent by the Fox?—I have already said, and again say, she did not the whole afternoon bear down, or make any attempt towards obeying the signal.

Q. Did sir Hugh Palliser, by signal or otherwise, inform the admiral of his incapacity of obeying the signals?—No, he did not.

Q. Did you yourself see any disability in the Formidable, or did the Fox return with any answer to the admiral?—No, I saw no disability in the Formidable; the admiral and I had much conversation about the cause of his not obeying the signal. It struck me that the vice-admiral was certainly wounded; but I could not conceive it to be owing to the disability of the Formidable, because if it had I should have believed he would either have informed the admiral, or have shifted his flag on board some other ship of his division. The Fox did not return to us any more that afternoon.

Q. Did it appear to you that the disobedience of the vice-admiral of the blue to the signals and orders of the admiral was the cause that prevented the engagement from being renewed?—Had the fleet been collected, I am persuaded that the engagement would have been renewed; and I am sensible that if the vice-admiral of the blue had led his division down in obedience to the signals and orders, and been connected, as the other part of the fleet were, the admiral would have renewed the action, or have attempted to do so.

Q. Did admiral Keppel express much uneasiness and disappointment to you on the vice-admiral's not coming down, and what were his expressions?—He expressed much uneasiness, disappointment, and displeasure; but th

conversation was much too complex for me to remember; but I recollect he once said, on the quarter-deck, with more warmth than is usual to him, that he could not have believed he should have been so ill obeyed.

Hon. captain Boyle Walsingham called.

Q. Did it appear to you that the vice-admiral of the blue did all that he could to bring his division into action?—I paid very little attention to the Formidable till she came into action.

Q. Did the vice-admiral behave as became an officer of his rank in the action?—He did, in coming in with spirit, and keeping up a regular fire.

Q. At what time did you first see the signal for the line, and how long did it fly?—It was hoisted about two o'clock, and I may say it was flying the whole afternoon. It was so at night.

Q. Was the signal for the line repeated, and by whom?—It was repeated by the Arethusa.

Q. Was the signal repeated by the two vice-admirals?—To the best of my recollection, it was repeated by the vice-admiral of the red, but it was not repeated by the vice-admiral of the blue.

Q. Were any more signals made on board the Victory till dark, and were they repeated, and by whom?—The signal for ships to windward to come into his wake; it was repeated by the vice-admiral of the blue.

Q. Did the vice-admiral of the blue come into his station in consequence of these signals?—No.

Q. Did you see any impediment to his doing it?—I saw none.

Q. Did you see the Formidable's fore-topsail unbent?—Yes, for some hours.

Q. Did the vice-admiral of the blue make any visible efforts to come into his station, by making sail, or otherwise?—None that I saw; I cannot recollect what sail he had set.

Q. From the position of the fleet between five and seven o'clock, do you think it was the admiral's intention to renew the attack in the afternoon?—That was my firm opinion.

Q. What do you think were the admiral's reasons for not re-attacking the enemy?—Because he was not supported by the vice-admiral of the blue.

Q. Did the vice-admiral of the blue make any signals of distress in the afternoon?—None that I saw.

Q. Do you know of any other reprehensible circumstance in the conduct of sir Hugh Palliser?—I know of nothing else but his disobedience of signals.

Monday, April 19.

Hon. captain Windsor, late captain of the Fox, sworn.

Q. Did you receive any orders from admiral Keppel in the course of the afternoon of the 27th of July, and at what time?—Yes, I did, nearly about five o'clock.

Q. What were they?—To stand to the Formidable with orders from admiral Keppel to sir Hugh Palliser, to acquaint him that he only waited for him and his division to come into his wake to renew the action.

Q. Did you commit them to writing?—No.

Q. From whom did you receive them?—From admiral Keppel.

Q. Did you go on board to receive orders, or was it by hailing?—By hailing.

Q. At what time did you deliver them on board the Formidable?—At half-past five nearly.

Q. Did you receive any answer?—I received an answer from sir Hugh Palliser, that he understood me perfectly well.

Q. Was the Fox to leeward or windward when you received the answer?—To leeward.

Q. What was the distance of the Fox from the Formidable at that time?—So close as to becalm my sails by her.

Q. Was there any noise so as to prevent their hearing the orders given?—None on board the Fox. After I delivered the message the Formidable's company cheered the Fox, which, after I had got a sufficient distance, I made our people return.

Q. Was the answer given before you received the cheer?—It was.

Q. Was the cheering so immediately upon the delivery of the message as to prevent any part of it being heard?—Certainly not.

Q. Was any person in the stern gallery with the vice-admiral of the blue when you delivered the message?—Not that I know of.

Q. Was your message distinctly heard on board the Formidable?—Certainly, or I could not have received so distinct an answer.

WEDNESDAY, APRIL 28.

Sir Hugh Palliser delivered his defence in substance as follows:—

I will speak a few words with respect to the action. I went into it with great disadvantage, and whatever was the real intention of the signal made to chase, it operated quite contrary. The centre and van divisions went into action, and were supported by each other, whilst I had only two ships to go into action with me, and the nearest of them at half a mile distance; before I began firing I backed my mizen-topsail, and both received and gave more fire in consequence of it, and hauled my wind to close with the two sternmost ships of the enemy, who had avoided a great part of the action. I apprehend that I engaged far more ships than came to my share, whilst admiral Keppel, even by his own log-book, fell in with only six or seven. I mention this only to account for the damages my ship received more than any other.

I imagined the admiral would have renewed the action immediately after passing the rear of the enemy, and was therefore willing to take the lead, and ordered the ship to be wore directly, and by temporary ropes and other expedients we wore immediately, which was plainly seen by captain Marshall, sir William Burnaby, and captain Robinson.

Some time after the wearing I perceived the signal for battle hauled down on board the admiral, likewise on board sir Robert Harland's division; I then thought the admiral had given it over, and finding three French ships point towards me, I saw no reason to continue in the situation I was, unsupported and liable to be cut off, therefore wore to meet and join the body of the fleet; and never did I see the signal for the line until abreast of the Victory, which will appear the less extraordinary when sir Robert Harland himself never saw it, while on the larboard tack, neither did captain La Forey while the Victory was on that tack.

Had the signal for ships being seen out of their station been made, in all probability I must have seen it, as it would have been at the main-topmast head, and which would, in my opinion, have been a proper signal.

Had I not wore again as I did, the three French ships would most undoubtedly have separated me; and surely I stand exculpated in that, when admiral Keppel says he should not have deserved the name of an officer had he led on to battle again, without his fleet being formed, when he plainly saw that of his enemy was; if the Victory was in a dangerous situation while on the larboard tack with some ships with her, how much more so must I have been, unsupported and alone: but admiral Keppel blames me for it, and admiral Campbell, ever willing to find fault with me, disapproves of my conduct, and approves of that of all others; how to account for this strange partiality I am at a loss.

The Formidable passed the Victory a little before three o'clock, and the signal for wearing and the line was then first seen, which will be proved by several of my witnesses; and had not a member of this court asked, during

the present trial, the question, whether a gun was fired when the signal was made, a particular fact could never have come to light. On hearing the question asked, I directly, on leaving the court, sent for my gunner, and, on examining his expense-book I find the particular charge of powder, for firing that gun set down in his book, which was the last gun fired.

The assertion that I kept close to the wind, and that the Victory went large, is untrue; the Victory's log-book is false and erroneous, for we always steered the same course the admiral did; and had we even been willing to hug the wind close, we could not, owing to the want of braces and bowlings. The Formidable's log-book makes the Formidable to have sailed, the early part of the afternoon, two knots four fathoms, afterwards three knots, and at last, three knots and a half, which I believe was nearly a true account; the Victory's log-book at those periods makes her to sail only two knots. Was there any truth in the logs, I own there would be great room for argument; as I outsailed the Victory, it would have been entirely my fault; but as the logs are incorrect, the force of reasoning is lost.

The next stage I shall touch upon is that of the message sent to me by the Fox frigate; I shall confute the evidence that has been given about it from the first to the last. Admiral Keppel says he sent it at five o'clock, in which he is supported by some of the officers of his ship. Captain Windsor makes the time earlier; but they are all false in their accounts, as I will make appear by the minutes produced by captain Marshall; and surely, after the high encomiums passed on that officer by admiral Keppel, he cannot disbelieve him. Captain Marshall makes the signal for the Fox to come within hail at thirty-two minutes past five o'clock, which is half an hour later; and if captain Marshall was three miles from the Victory, and the Fox near him, admiral Keppel could not send the message before five, but after six o'clock; and in this, admiral Keppel speaks directly false, for the signal for the Fox was made at thirty-two minutes past five, and not hauled down till three minutes past six o'clock. However, the time first mentioned was most convenient for the plan of my destruction. However, I hope, for admiral Keppel's sake, that he confounded the Proserpine's signal for that of the Fox; but that he could not do without impeaching the evidence of captain Berkley, captain Windsor, and admiral Campbell. Captain Windsor swore that he delivered the message about half-past five, which will appear to the court to be grossly misrepresented; for he says, the Formidable was three points on his weather-quarter, and three miles distant, and before he could gain her he was obliged to make a trip, which must take him more than an hour, notwithstanding he says, he went after the rate of six or seven knots, which would nearly agree with the time it was delivered, which was between seven and eight o'clock, a little before sunset. The sun, in July, in the latitude of Ushant, sets between half-past seven and eight o'clock, and to strengthen this, we had repeated the blue flag's particular pendants before captain Windsor came. The result is, that what was said to be delivered at half-past five o'clock, was not delivered until half-past seven o'clock, a period of two hours' difference, and which makes the time of delivery to be too late to renew the action.

He wrote two letters while at Plymouth, in which he approved of my conduct, and he must either allow that I am innocent, or he guilty of duplicity.

THURSDAY, APRIL 29.

Sir William Burnaby, captain of the Milford frigate, was called by the prisoner; who said, he observed the Formidable particularly the whole afternoon, and she appeared to him to be very much disabled in her rigging and sails. This witness was cross-examined by captains Colpoys, Duncan, and sir Chaloner Ogle, and in answer to their several questions gave the following testimony:—

At three-quarters past four he left admiral Keppel to join sir Robert Harland. The Victory had the signal for the line flying at that time, but the

Formidable had not. About seven o'clock the Milford got into her station on the weather-beam of the Formidable, being appointed to attend the blue division. He saw the blue flag at the mizen-peak of the Victory, but it was not repeated by the vice of the blue. He did not remember to have seen the Fox's signal, nor that any frigate came near the Formidable. Sir William withdrew, and

Captain Bazeley was called into court and sworn.

He deposed, that when the vice-admiral of the blue went into action, the ship ahead of him was half a mile distant, and the ship astern, a mile. After the Formidable wore, the officers and ship's company were ordered immediately to quarters, being within random shot of the enemy, who fired two or three guns at her while she was in the act of wearing. From the circumstances she was in it was impossible for her, notwithstanding any signals that were made, or messages sent, to get into her station in the line unless the admiral had shortened sail, and it would have been very unsafe for the Formidable to have set more sail upon the fore-mast sooner than she did.

Captain Bazeley was cross-examined by captains Duncan, Peyton, and Robinson.

He described the situation of those ships that were near the Formidable while she was in action. The witness concluded his testimony with an account of the time he brought his fore-topsail to the yard, and with assigning causes why the Formidable was not sooner manageable. Among other matters he mentioned that the fore-mast was rotten, and in danger of coming over the ship's side.

Wednesday, May 5.

The court was opened at half-past nine o'clock, when the president acquainted the prisoner that they were not quite ready, but hoped they would not detain him long, upon which the court was immediately cleared, and very warm debates ensued until one o'clock, when the prisoner was called in, and on the audience being admitted, the judge-advocate read as follows :—

"At a court-martial assembled on board the Sandwich, in Portsmouth harbour, for the trial of sir Hugh Palliser, Bart. The minutes of the late court-martial held on admiral Keppel being laid before the court, and there appearing several facts respecting the conduct of vice-admiral sir Hugh Palliser, on the 27th and 28th of July last, which demanded strict examination, the court therefore having heard evidence, and seriously and maturely considered the same, are of opinion,

"That the conduct of the vice-admiral of the blue on those days was in many instances highly exemplary and meritorious.

"Yet at the same time, we think him reprehensible in not having acquainted the admiral, commander-in-chief, of his distress, which he might have done, either by the Fox, or other means, which he had in his power.

"The court therefore, not thinking him censurable in any other respect, do acquit him, and he is hereby accordingly acquitted."

"The president then, receiving sir Hugh Palliser's sword from the marshal, presented it to the vice-admiral, addressing him in the following words :—

"*Sir Hugh Palliser*,—I feel the highest satisfaction in being authorized by this court to return your sword, which you have hitherto worn with so much professional reputation, and which, I trust, will be soon drawn again in the honourable defence of your country."

SARAH METYARD AND SARAH M. METYARD,

FOR MURDER, 1768.

THE above malefactors kept a house in Bruton-street, Berkeley square, the mother dealing in millinery goods, and the daughter acting as her assistant. In the year 1758 the mother had five apprentice girls bound to her from different parish work-houses, among whom were Anne Naylor and her sister.

Anne Naylor, being of a sickly constitution, was not able to do so much work as the other apprentices about the same age; and therefore she became the more immediate object of the fury of the barbarous women, whose repeated acts of cruelty at length occasioned the unhappy girl to abscond. Being brought back, she was confined in an upper apartment, and allowed each day no other sustenance than a small piece of bread, and a little water.

Seizing an opportunity of escaping from her confinement, she got unperceived into the street, and ran to a milk-carrier, whom she begged to protect her, saying, if she returned she must certainly perish, through want of food and the severe treatment she daily received. Being soon missed, she was followed by the younger Metyard, who, seizing her by the neck, forced her into the house, and threw her upon the bed in the room where she had been confined. She was then seized by the old woman, who held her down while the daughter cruelly beat her with the handle of a broom.

They afterwards put her into a back room on the second story, tying a cord round her waist, and her hands behind her, and fastened to the door in such a manner that it was impossible for her either to sit or lie down. She was compelled to remain in this situation for three successive days: but they permitted her to go to bed at the usual hours at night. Having received no kind of nutriment for three days and two nights, her strength was so exhausted, that, being unable to walk up-stairs, she crept to the garret, where she lay on her hands and feet. While she remained tied up on the second floor, the other apprentices were ordered to work in an adjoining apartment, that they might be deterred from disobedience by being witnesses to the unhappy girl's sufferings: but they were enjoined, on the penalty of being subjected to equal severity, against affording her any kind of relief.

On the fourth day she faltered in speech, and presently afterwards expired. The other girls seeing the whole weight of her body supported by the strings which confined her to the door, were greatly alarmed and called out, "Miss Sally! Miss Sally! Nanny does not move." The daughter now came upstairs, saying, if she does not move I will make her move; and then beat the deceased on the head with the heel of a shoe.

Perceiving no signs of life, she called to her mother, who came up-stairs, and having ordered the strings that confined the deceased to be cut, laid the body across her lap, and directed one of the apprentices where to find a bottle with some hartshorn.

When the child had brought the drops, she and the other girls were ordered to go down-stairs; and the mother and daughter, being convinced that the object of their barbarity was dead, conveyed the body into the garret. They told the other apprentices that Nanny had been in a fit, but was perfectly recovered, adding, that she was locked in the garret lest she should again run away: and in order to give an air of plausibility to their tale, at noon the daughter carried a plate of meat up-stairs, saying it was for Nanny's dinner.

They locked the body of the deceased in a box on the fourth day after the murder; and having left the garret door open, and the street door on the jar, one of the apprentices was told to call Nanny down to dinner, and to tell her that if she would promise to behave well in future, she should be no longer confined. Upon the return of the child, she said, Nanny was not above

stairs; and after a great parade in searching every part of the house, they reflected upon her as being of an untractable disposition, and pretended that she had run away.

The sister to the deceased, who was apprentice to the same inhuman mistress, mentioned to a lodger in the house, that she was persuaded her sister was dead: observing, that it was not probable she had gone away, since her shoes, shift, and other parts of her apparel still remained in the garret.

The suspicions of this girl coming to the knowledge of the inhuman wretches, they, with a view of preventing a discovery, cruelly murdered her and secreted the body.

The body of Anne remained in the box two months, during which time the garret door was kept locked, lest the offensive smell should lead to a discovery. The stench became so powerful that they judged it prudent to remove the remains of the unhappy victim of their barbarity; and, therefore, in the evening of the 5th of December, they cut the body in pieces, and tied the head and trunk up in one cloth, and the limbs in another, excepting one hand, a finger belonging to which had been amputated before death, and that they resolved to burn.

When the apprentices were gone to bed, the old woman put the hand into the fire, saying, the fire tells no tales. She intended entirely to consume the remains of the unfortunate girl by fire; but, fearing the smell would give rise to suspicion, changed that design, and taking the bundles to the gully-hole in Chicklane, endeavoured to throw the parts of the mangled corpse over the wall into the common sewer; but, being unable to effect that, she left them among the mud and water that was collected before the grate of the sewer.

Four years elapsed before the discovery of these horrid murders, which at length happened in the following manner. Continual disagreements prevailed between the mother and daughter; and, though the latter was now arrived at the age of maturity, she was often beat, and otherwise treated with severity. Thus provoked, she sometimes threatened to destroy herself, and at others to give information against her mother as a murderer.

About two years after the murders, a gentleman named Rooker, took lodgings in the house of Metyard, where he lived about three months, during which time he had frequent opportunities of observing the severity with which the girl was treated. He hired a house in Hill-street, and influenced by compassion for her sufferings, and desirous of relieving her from the tyranny of her mother, he invited the girl to live in his family in the capacity of a servant; which offer she cheerfully embraced, though her mother had many times violently opposed her desire of going to service.

The girl had no sooner removed to Mr. Rooker's house than the old woman became perfectly outrageous; and it was almost her constant daily practice to create disturbances in Mr. Rooker's neighbourhood, by venting the most bitter execrations against the girl, and branding her with the most opprobious epithets.

Mr. Rooker removed to Ealing, to reside on a small estate bequeathed by a relation; and having by this time seduced the girl, she accompanied him and lived with him professedly in the character of his mistress. The old woman's visits were not less frequent at Ealing than they had been at Mr. Rooker's house in London; nor was her behaviour less outrageous. At length Mr. Rooker permitted her to be admitted to the house, imagining that such indulgence would induce her to preserve a decency of behaviour: but he was disappointed, for she still continued to disturb the peace of his family.

On the ninth of June, 1762, she beat her daughter in a terrible manner; and, during the contention, many expressions were uttered by both parties that gave great uneasiness to Mr. Rooker. The mother called Mr. Rooker, the old perfume tea dog; and the girl retorted, by saying, remember, mother, you are the perfumer; you are the Chick-lane ghost, alluding to the body of

Anne Naylor having been kept in the box till it became intolerably offensive, and then thrown among the mud and water in Chick-lane.

The mother having retired, Mr. Rooker urged the girl to explain what was meant to be insinuated by the indirect accusations introduced by both parties in the course of the dispute: and, bursting into tears, she confessed the particulars of the murders, begging that a secret so materially affecting her mother might never be divulged.

Mr. Rooker imagined that the daughter would not be rendered amenable to the law, as she performed her share in the murders by the direction of her mother. He therefore wrote concerning the affair to the overseers of Tottenham parish, whence the girls were put out apprentice: in consequence of which the elder Metyard was taken into custody.

On the day of examination, Mr. Rooker, the younger Metyard, and two children, apprentices in the house when the murders were committed, attended at sir John Fielding's house in Bow-street. The evidence against the prisoner left no doubt of her guilt; and she was committed to New-prison, Clerkenwell, for re-examination, and the girls were put under the protection of the overseers of St. George's, Hanover-square.

On the trial of these offenders, which came on at the ensuing Old Bailey sessions, they bitterly recriminated each other, and their mutual accusations served to confirm the evidence of their guilt. The younger Metyard pleaded pregnancy; on which a jury of matrons was summoned, who pronounced that she was not with child: after which they were both sentenced to be executed on the following Monday, and then to be conveyed to Surgeons' Hall for dissection.

The mother being in a fit when she was put into the cart, she lay at her length till she came to the place of execution, when she was raised up, and means were used for her recovery, but without effect, so that she departed this life in a state of insensibility. From the time of leaving Newgate to the moment of her death, the daughter wept incessantly. They were executed at Tyburn, on the 19th of July, 1768.

JOHN BISHOP, THOMAS WILLIAMS, AND JAMES MAY,

FOR THE MURDER OF CHARLES FERRAIR.

John Bishop, Thomas Williams, and James May were indicted for the murder of Charles Ferrair, otherwise called Carlo Ferrair, on the 4th of November. Another account charged them with the murder of a male person, name unknown. The deceased was an Italian boy. The prisoners, at least two of them, were resurrection-men, and were understood to have committed the murder for the purpose of procuring a body to sell for dissection.

William Hill stated, that he was a porter at the dissecting room of King's college. On the 5th of November last, the bell of the gate was rung at about a quarter past twelve o'clock; found Bishop and May at the gate; had known them before. When witness opened the door, May asked him if he wanted any thing; witness said not particularly. Asked him what he had got; he said a male subject. Witness asked of what size, and what price; he said it was a boy of fourteen, and that he wanted twelve guineas for it. Witness said he did not want it much, but he would see Mr. Partridge, the demonstrator, who came down to see the body. Witness took them to a room, where Mr. Partridge joined them. They did not then produce any body. There was a difference at first about the price, but witness afterwards agreed with them. May said they should have it for ten guineas. Mr.

Partridge then left witness alone with them. Witness went to Mr. Partridge to know whether he would decide upon having it. When witness returned, he told them that Mr. Partridge would give them nine guineas for it. May said, he would be d—d if it should come in for less than ten; he was tipsy at the time. May went outside the door. Bishop then said to witness, "Never mind May, he is drunk, it shall come in for nine, in half an hour." May was near enough to hear him. They then went away, and returned in the afternoon, all three together, with a porter named Shields. When witness then saw them, the hamper was on the head of the porter. They were received in a room, and May and Bishop took the hamper into another room, where they opened it; the body was in a sack; May and Bishop said, it was a very fresh one; May was tipsy, and turned the body carelessly from the sack; saw that the body was fresh; but saw something else about it which induced him to go to Mr. Partridge; he asked them what the body had died of? May said it was no business of theirs or of witness's. It was not in such a form as bodies usually are when taken from a coffin; the left arm was bent, and the fingers were clenched; witness told Mr. Partridge what he had seen, and what he thought; Mr. Partridge returned and saw the body, without seeing them; he examined the body and went to the secretary. He returned to May and Bishop, and showed them a £50 note, telling them that he must get that changed, and he would pay them. Bishop, seeing that Mr. Partridge had some gold in his purse, said, "Give me what money you have in your purse, and I will call for the rest on Monday." May also offered to get change for it, but Mr. Partridge declined that and left them. He returned in about a quarter of an hour or twenty minutes. The men remained. In the interim, a body of police had been sent for, who now apprehended them. When witness was leaving the room, Bishop said to him privately, "Pay me in presence of Williams only eight guineas, and give me privately the other guinea, and I will give you half-a-crown." The body was taken to the Police-office by Mr. Thomas; it had not been laid out; there was no sawdust on the back of the head.

Mr. Richard Partridge, demonstrator of anatomy at the King's college, was there on Saturday, the 5th of November. His attention was first called to the body by Hill. Examined the external appearance of the body, and found some marks and circumstances of suspicion. These were the swollen state of the jaw—the bloodshot eyes—the freshness of the body—rigidity of the limbs. There was likewise a cut over the left temple. Looked at the lips, which were swollen. Noticed nothing else in the appearance of the body. Witness went to the police before the £50 note was produced. On his return, witness showed May and Bishop a note, at the bottom of the stairs leading to the anatomical part of the college. Proposed that change should be got of the £50 note with a view to detain them till the police came. Saw the body afterwards, when in the custody of Mr. Thomas, in company with Mr. Beaman and other gentlemen. The muscles were then rigid. The wound on the temple was superficial, and did not injure the bone. That was the only appearance of external injury; at least there was no other external mark. Between the scalp and the bone there was some blood congealed. On opening the body, the whole of the contents of the chest and abdomen were in a healthy condition. Did not know what were the contents of the stomach, which was filled. The spinal part of the brain at the back of the head, and the whole brain was also examined; the brain was perfectly healthy, as far back as the spine; in cutting through the skin and muscles of the neck there was discovered a great deal of coagulated blood, and upon removing the back part of the bony canal which concludes the spine of the back, a quantity of congealed blood was also found in that; that was opposite the place where the blood had been found in the muscles of the neck; congealed blood was also found in the rest of the spine; the spinal marrow or cord appeared perfectly healthy; thought that those marks of violence

were sufficient to have caused death; violence had been exerted which had affected the spinal cord. Believed that those appearances had been caused by some violence on the back of the neck. Believed that a blow from a stick would have produced similar effects. Could not say whether that would produce instant death, but it certainly would have produced a rapid one.

Cross-examined.—Saw nothing in the external appearance that indicated a violent death.

Mr. G. Beaman, surgeon, of James-street, Covent-garden, first saw the body on the 5th of November, at twelve o'clock at night. Examined it carefully. It appeared to have died very recently. The weather was then favourable to the preservation of bodies. In his judgment the body had not been dead more than thirty-six hours. The face appeared swollen; the eyes full, prominent, and bloodshot; the tongue swollen, and protruded between the lips; the teeth had all been extracted; the gums bruised and bloody, and portions of the jaws had been broken out with the teeth. There were also appearances of blood having issued from the gums. Thought that the teeth must have been taken out within two or three hours after death. Examined the throat, neck, and chest very particularly; no marks of violence externally apparent there. Saw a cut on the forehead; it was a wound over the left eyebrow, about three-quarters of an inch long, through the skin to the bone. Pressed the part, and a small quantity of blood oozed from the wound. Blood might have issued from the wound if the latter had been caused by throwing the body out of a sack after death. It was serum, tinged with blood. Saw the body again at two o'clock on the Sunday afternoon. The limbs were decidedly stiff on the Saturday night, but not so stiff on the Sunday; should think that it had not been laid out. It was lying on a board irregularly placed when witness first saw it in Covent Garden church-yard, near the station-house. Soon after eight on that evening, witness, with Mr. Partridge and other gentlemen, further examined it. He cleansed with a sponge the neck and chest; found no scratch or any other mark of violence there. He then removed the scalp, with the top of the skull. They detected a patch of blood, of the size of a crown-piece. This appearance must have been caused by a blow given during life. The brain was next examined, and its appearance was perfectly healthy; the body was then turned for the purpose of examining the spinal marrow, and on removing the skin from the back part of the neck, a considerable quantity of coagulated blood (witness thought at least four ounces) was found among the muscles; that blood must have been effused while the subject was alive. On removing a portion of the spine to examine the spinal marrow, a quantity of coagulated blood was lying in the canal, which, by pressure in the spinal marrow, must have caused death. There was no injury to the bone of the spine. All these appearances, and death, would have followed the blow of an obtuse instrument of any kind. The chest and the cavity were minutely examined. There was about an ounce of blood in the spinal canal. The heart was empty, which is very unusual, and denoted sudden death; that is, death nearly instantaneous—in two or three minutes, and not longer. The stomach contained a tolerably full meal, which smelt slightly of rum, and digestion had been going on at the time of death. Should think that death occurred about three hours after the meal, from the appearances. Removed the stomach. The centre of the stomach appeared perfectly healthy. Ascribed the death of the boy to a blow on the back of the neck; this was the result of the whole of his examination, and was verified by precisely the same appearances as witness had seen on animals.

Frederick Tyrell, esq., one of the surgeons of St. Thomas's Hospital, confirmed the opinion of Mr. Beaman; he said he had never seen any case of serious apoplexy without marks on the brain.

By the Court.—The appearance described in the present case could only have been produced by violence.

John Earl Rogers, an inspector of police, stated that, on the 5th of November last, he received a body from the witness Hill, and gave it into the custody of Mr. Thomas. Had also the hamper, which he delivered to Mr. Thomas.

Joseph Sadler Thomas, superintendant of police.—On the 5th of November received information at the station-house, which induced him to despatch a party of police to the King's college. They brought back with them Bishop and Shields, and afterwards May and Williams. Shields has been discharged. When the body was in the hamper, witness asked May what he had to say, as he was charged on suspicion of having improper possession of a subject. He said that he had nothing at all to do with it. It was the property of Bishop, whom he merely accompanied to get the money. Bishop said that it was his, and that he was merely taking it from St. Thomas's hospital to King's college. Asked Bishop, in the first instance, what he was; he replied that he was "a —— body-snatcher." Williams said, he knew nothing of it, but merely went to see the King's college. Bishop and May appeared in liquor. May was brought in by all-fours, struggling violently. The body was placed on the table. It appeared to have died recently; blood was trickling from the mouth, and the teeth were gone. Went to the house of Mr. Mills in Newington-causeway, on the following Tuesday; received from him twelve teeth. (Witness here produced the teeth in a pasteboard box.) Went before that to Nova Scotia Gardens. Found in the back room of the ground-floor a trunk. Went again on the 20th, and made further examinations. Found in the front parlour a hairy cap covered with dirty linen, not apparently by design. Took possession of the cap, the hamper, and the sack. (All these articles were produced. The hamper appeared not more than three feet long by two broad and two deep.)

Henry Lock, waiter at the Fortune of War public-house, in Giltspur-street, knew the prisoners. Saw the prisoners there on the Friday, with a man who was a stranger to witness. They stayed till twelve o'clock, and then went away. The prisoners returned about three o'clock, without the strange man. They then stayed till about five o'clock, and went away again till about eight o'clock on the same evening, with another man, who appeared to be a coachman. The latter had something to drink, and left them. They were until nine o'clock in the tap-room; before the coachman left, one of the prisoners said, he had had a ride; at nine o'clock May went to the bar, and had something in a silk handkerchief, which witness afterwards saw to be teeth; May found water on the outside of the handkerchief, and rubbed the handkerchief together; they looked like young teeth, and witness said that they were worth a few shillings, when May said, that they were worth two pounds to him; they all left together a short time afterwards: on the next evening he saw Bishop, Williams, and Shields, at about eight o'clock; Bishop asked Williams what they should do for a hamper, and asked Shields to go and fetch one; Shields refused, and Bishop then went and got one himself.

Thomas Wigley.—Was at the public-house at about half-past seven o'clock on the 4th of November. Bishop and May came in and sat down opposite each other. They entered into conversation together. Bishop said to May, "What do you think of our new one? Did he not go up to him well? Wasn't he a game 'un?" May replied, "I don't know what you mean." Bishop rejoined "That's all right then." They saw witness there in the corner at that time. May sat down, and had a handkerchief rubbing in his hand. Williams came in, and Bishop said, "There he is; I knew he would come; I knew he was a game 'un." Bishop seemed to have been drinking. Bishop and Williams went out first. Just after Bishop came in, he said to May, just before May went out for the handkerchief, "You stick to me, and I'll stick to you."

James Seagrave, the driver of a cabriolet, stated, that on the evening of the 4th, he was on the stand in the Old Bailey; had put his horses' nose

bags on, and had gone to the watering-house to get his own tea. May and Bishop came in at the time. May asked if he wanted a job, and said that he wanted a cab. He led witness by the skirt of his coat to the side of the cart. May said, that he wanted witness to fetch a stiff 'un, which witness believes meant a dead body. Witness asked what he would stand? He replied, "A guinea." Told him that he had not finished his tea, and the horse had not eaten his corn. May then said, "We will take tea together." Bishop then joined them, and they went into the house to tea. A person in the room nudged witness's elbow, and told him that he must mind what he was at, as they were snatchers. Went out afterwards and drove to the bottom of the rank to get out of their way; looked round and saw May and Bishop going up the rank of coaches. Left them apparently bargaining with a coachman.

Thomas Taverner, waterman to the coach-stand, saw on the above day May and Bishop, who came to him on the stand, and asked where the cabman was, meaning Seagrave. May asked the question, and witness told him that he was getting his tea. Fetched out Seagrave from the watering-house. Both the prisoners had smock-frocks on. It was just dark in the evening. Seagrave came out and spoke to them, but witness did not know what it was. Seagrave, however, said, "I'll have nothing at all to do with you," and went in to get his tea.

Edward Chandler.—Was, on the 4th of November last, waiter at the King of Denmark, in the Old Bailey, which is the watering-house. Served Bishop and May with tea at about five o'clock. Saw Seagrave there; May and Bishop had half a pint of gin. Saw May put some gin into Bishop's tea. He said, "Are you going to hocus (or Burke) me?" Had known May and Bishop before.

Henry Mann, a hackney-coachman.—Was, on the 4th, on the stand in Bridge-street, Blackfriars. Knew May before then. Saw him that night with a stranger to witness. May asked witness if he would take a fare to Bethnal-green? Witness replied that he would not, because he knew what May was.

George Hissing, a boy of about twelve years old, deposed that his father kept the Crab-tree public-house, in the Hackney-road. Saw on the Friday a chariot draw up opposite his father's house, which is near the Nova Scotia Gardens. Saw Williams standing on the fore-wheel of the chariot, talking with the coachman. The chariot remained ten or fifteen minutes. Saw Williams at that time coming from Nova Scotia Gardens, in which direction he had gone. He got into the chariot. Witness saw a man, whom he did not know, helping Bishop, whom he did know, in carrying a heavy sack. It was put by Bishop, Williams, and another man, into the chariot. Bishop and the other man then got in, and the chariot drove up towards Crab-tree row, and Shoreditch church.

Thomas Trainer corroborated the last witness.

Ann Channell was passing the Crab-tree on the above night. Saw three men get out of the chariot. They went down Nova Scotia Gardens. One stopped and spoke to the coachman, and then ran after the others. Did not see them afterwards. The first two had smock-frocks on, and the other had a pipe in his mouth.

Thomas Davis, porter to the dissecting-room in Guy's hospital, saw May and Bishop at about seven o'clock on the Friday evening; May brought in a sack, and asked him if he wanted to purchase a subject. Witness replied that he did not, and they then asked him to let it remain till next morning. It was, consequently, locked up there during the night. Saw them the next morning in the hospital, at about eleven o'clock. Left the hospital and found on his return the sack, which appeared to contain a dead body. Saw a portion of a small foot protruding through a hole in the sack; it appeared like that of a youth or a woman. It did not appear large enough for a man's foot. Could not swear to the sack produced. It was such a one.

James Weeks, assistant to the last witness, deposed to having given up the sack to them—the sack was very like the one produced; when they took it away, Williams and Shields were with May and Bishop; May and Bishop had each requested him not to allow either of them to have it without the other; they took it away in a hamper similar to that produced.

James Appleton, curator of Mr. Grainger's anatomical theatre, Webb-street, Southwark, knew all the prisoners, and saw Bishop and May at the theatre on the Friday night about half-past seven o'clock. They said that they had a very fresh male subject, a boy about fourteen years of age. Witness declined purchasing it. They came on the next morning, about eleven, and made the same offer, which was again declined.

Thomas Mills, dentist, of 32, Bridgehouse-place, Newington-causeway, deposed: on the 5th of November, May called on him about nine in the morning, and offered twelve human teeth, six from the upper, and six from the lower jaw. He asked a guinea for the set. Witness said, that one of them was chipped, and did not belong to the same set. He replied, "Upon my soul to God they all belonged to the same head not long since, and the body was never buried." Afterwards discovered that some of the flesh and pieces of the jaw adhered to the teeth, and it appeared that much force had been used to wrench them out. Witness said, that they were a young set. He replied, "The fact is, that they belonged to a boy about fourteen or fifteen years of age."

Augustus Brunn examined, through the medium of an interpreter.—I knew a boy named Carlo Ferrier, and brought him from Italy two years ago; he was about fourteen years old, and lived with me about six weeks after he came here. The 28th of July, 1830, was the last time I saw the boy alive. He then lived at Mr. Elliot's, No. 2, Charles-street, Drury-lane. On the 19th of November, I saw the body of the boy in St. Paul's burial ground, Covent-garden, and I believe it to be the body of that boy; the size and the hair were similar, but the face was disfigured.

Cross-examined.—If I had known nothing about this occurrence, and had seen the body, I should be of opinion he was "my own."

By Mr. Justice Littledale.—He was in his fifteenth year. I have not seen him for fifteen months. He might have grown a little in that time, but not much.

By Mr. Curwood.—At first sight, if anybody had asked me who the body was, the face was so disfigured I could not tell.

Joseph Peraguari sworn.—I get a living by playing an organ and pipes in the street. I knew Carlo Ferrier, and used to see him every day in Charles-street, Drury-lane. His sister lived in Scotland, and died there. He came to London on the 22d of May, 1830, and I have known him all that time. I last saw him alive in the Quadrant, Regent-street, at two o'clock on a Saturday, four weeks before I saw his body at the station-house. When I saw him in the Quadrant, he had a little cage round his neck, with two white mice in it. He was in the habit of wearing a cap, but I cannot say whether it was of cloth, leather, or skin. The leather shade of the cap produced was of foreign manufacture.

Mary Peraguari, wife of the preceding witness, stated, that on Tuesday, November 1, she saw the deceased in Oxford-street, near Hanover-square. He had a cage like a squirrel-cage, and two white mice in it. She did not speak to him. He wore a cap, but she could not tell what sort of one it was. She had seen the body of that boy at the station-house in Covent-garden.

Andrew Colla, bird-cage maker.—I knew the deceased boy, by seeing him in the streets, and saw him lately in Oxford-street; I have seen the body at the station-house, and believe it to be the body of the boy I have seen in the streets. When I saw him in Oxford-street he had white mice in a cage, and a tortoise. The cap produced was similar to that which he wore. He also

wore a blue coat and gray trowsers, with a large patch on the left knee of the latter.

(The trowsers which had been dug up in Bishop's garden were here produced.)

The witness examined them, and stated, he believed them to be the same as those the deceased had worn, and he pointed out the patch on the knee of them.

John King, a boy, sworn.—I live at No. 3, Crab-tree road, near Nova Scotia Gardens. I remember one day when my mother washed, seeing a boy near Nova Scotia Gardens. I believe it was the Thursday before Guy Fawkes' day. I was looking out of the window, and the boy had something, but my mother would not let me go to see what it was. I believe it was a little cage that he had, and it was slung from his neck by a string. He was standing still. He had a brown cap, with the leaf or shade lined with green, exactly like this cap (the one produced). I was looking at him for a few minutes.

Martha King, sister to the last witness, aged eleven years, saw the Italian boy, as described by her brother. He was not one minute's walk from Bishop's house, and she had never seen him since.

John Randall, a labourer.—I live near Nova Scotia Gardens. On Thursday morning, November 3, I saw an Italian boy, about nine or ten o'clock, near Nova Scotia Gardens. He was standing under the window of the Bird-cage public-house, and had a box or cage, with two white mice. He had on a blue coarse jacket, and a brown fur cap, but I did not notice his trowsers. The cap and jacket were similar to those produced.

William Woodcock, a boy, stated that he lived with his father, at No. 2, Nova Scotia Gardens, next door to Bishop's house; he knew Williams, and had seen him there ten times, and had also seen Williams's wife washing in Bishop's house; saw Williams there two or three days before Guy Fawkes' day, walking in the garden, smoking a pipe.

Abraham Keymer, landlord of the Feathers, Castle-street, Bethnal-green.—On the night of Thursday, the 3d of November, Bishop, and I believe Williams also, came to my house. It was near twelve o'clock. My house is about 200 yards from Nova Scotia Gardens. They had a quartern of rum and half a gallon of beer, and I lent them a can to carry it. The can produced was that which he lent them.

William Woodcock.—I went to reside at No. 2, Nova Scotia Gardens, on the 17th of October, next door to Bishop. Williams, I have reason to believe, also lived with Bishop. I lived in No. 2, until after the prisoners were apprehended. I know Williams, but did not know Bishop until I saw him at Bow-street. On Thursday, the 3d of November, I went to bed about half-past nine o'clock. In the course of the night, probably about four hours and a half after I had gone to bed, I was awakened by hearing footsteps which I thought were at the back of my premises, but I distinctly heard three men's footsteps in the parlour of No. 3 (Bishop's house). I remained in bed and heard a scuffle, which lasted for one or two minutes, at the furthest, and then all was silent. The scuffling was in the same room in which I heard the footsteps. Afterwards I heard Bishop's side-door open, and also heard the footsteps of two men. There is a side-door to Bishop's house. The persons after leaving Bishop's house, I heard come round to the front, and pass by my house. After they were gone, I heard the footstep of one person in the house. When those two persons returned to the house, I distinctly heard the voices of three persons, one of which I knew to be that of Williams. After that, all became still again, and I went to rest.

Cross-examined.—I believe the wall between the two houses is but four inches thick. The struggle that I heard I considered at the time to be a family quarrel.

By Mr. Justice Littledale.—Not more than a minute and a half elapsed from the time of the two men leaving until their return.

Joseph Higgins, a new police constable.—On the 9th of November, in consequence of some instructions, I went to No. 3, Nova Scotia Gardens; and on searching it I found two crooked chisels, a brad-awl, and a file. There appeared to be blood on the brad-awl, which at that time looked fresh. I searched May's premises, No. 4, Dorset-street, New Kent-road, on the 11th, and found a pair of breeches, which had, on the back part, marks of blood, which appeared to be fresh. There was also a waistcoat with marks of clay on it. On the 19th I went again to Bishop's house with James Wadey.

Mr. Mills, the dentist, was recalled, and examined by chief-justice Tindal.—The teeth had been forced out: I should think the brad-awl now produced would afford great facility in forcing out the teeth.

The evidence of Higgins was then continued.—When we went to Bishop's house, on the 19th, we searched the garden behind the house; we first attempted it with an iron rod, but finding something impeding it, I desired Wadey to dig, and a jacket, trowsers, and a small shirt, were found; that was about five yards from the back door. In another part we dug up a blue coat, a pair of trowsers with the braces attached to them, a striped waistcoat, which appeared to be a man's, and taken in for a boy, with marks of blood on the collar and shoulder, and a shirt that was torn up the front. (The witness here produced all those things.) The clothes are those which would be useful to boys like the deceased. There were ashes over the place where the clothes had been buried.

Edward Ward, a little boy, six and a half years old, was next examined.—My father lives in Nova Scotia Gardens. I remember last Guy Fawkes' day, at which time I was in the habit of going to school. I remember my mother giving me a half holiday. I went to Bishop's house. Bishop has three children, two of them boys. On that day I saw the children in the house, and they showed me a cage with two little white mice; the cage turned round. I had often played with Bishop's children before, but never saw them with a cage of white mice before that.

John Ward, an elder brother of the preceding witness stated, that what his brother had just related took place on Friday, the 4th of November. His brother on that day told him what he had seen.

Mr. Corder, vestry clerk of St. Paul's, Covent-garden, examined.—A coroner's inquest was held on the deceased on the 8th of November, and closed on Thursday, the 10th. In the course of the examination Bishop was introduced, and after a suitable caution, made a statement which the coroner put down in writing. I also told Bishop, before he said any thing, that the inquiry might affect his life. After that he made a voluntary declaration. (The witness here read it: in it Bishop stated that he got the body from a grave, and assigned as a reason for not telling where the grave was, that two watchmen who knew of it, had large families.) May also made a declaration: he stated that he had been into the country whence he had brought two subjects which he took to Mr. Grainger's, and thence to Guy's Hospital; that he met with Bishop, who told him he had got a good subject which he was offered eight guineas for, and if he, May, could sell it, he should have all above nine guineas for himself. This he agreed to, and his account of the subsequent transactions was similar to that given in the early part of the evidence.

Mr. William Burnaby, clerk of Bow-street police-office, sworn.—When the brad-awl was produced at Bow-street, May said, "That is the instrument with which I punched the teeth out."

John Kirkham, police constable, stated, that when the inquest was sitting, he had charge of the prisoners in the station-house. Behind where they sat, there was a printed bill posted, referring to the matter. Bishop looked at the bill, and then leaned over Williams to speak to May; he said to May, "It was the blood that sold us." Bishop then got up, and looked a second time

at the bill, and referring to the words "marks of violence," he said these marks were only breakings out in the skin.

Mr. Thomas, the superintendant, was recalled by Mr. Bodkin.—When I first saw the body, there were patches of dirt on several parts. There were also marks on the left arm, as though they were the impression of fingers, and it appeared to me as if the chest had been pressed in. There was a stream of blood from the forehead down the face to the breast.

Mr. Adolphus stated that this was the case for the prosecution.

The prisoners were then severally called upon for their defence.

Bishop stated, that he was 33 years old, and had a wife and three children. He was formerly a carrier at Highgate, but for the last twelve years he had obtained a living by supplying the various hospitals and anatomical schools with dead bodies, but he declared that he never was in any manner concerned in improperly obtaining subjects. He had been in the habit of getting bodies from workhouses, and sometimes with the clothes remaining on them. All the gardens about Nova Scotia Gardens were easy of access, and were only divided by a low dwarf railing. As to the wearing apparel found in the garden, he knew nothing; but, regarding the cap, he said he should prove that his wife purchased it of Mrs. Doddswell, who kept a sale-shop in Hoxton Old Town. As respected the prisoners Williams and May, they knew nothing of the manner in which he got the body, and he declared that he only got it in the way by which subjects were usually obtained.

Williams, in his defence, stated, that he knew nothing of the means by which the body was procured by Bishop, who invited him to go to King's college. He, Williams, was not in the habit of dealing in subjects, but got his living by working as a glass-blower.

May, in his defence, said, he was thirty years old, and was married, and formerly was a butcher, but for the last six years he had followed the trade of dealing in subjects and supplying them to hospitals. On the day when he met Bishop at the Fortune of War public-house, it was merely by accident, when Bishop asked him where he could sell a good subject, stating that he had been offered eight guineas for it. He (May) told him, as was the fact, that he had sold two to Mr. Davis, at ten guineas each, the day before, and he would try if Mr. Davis would buy that one. Bishop told him he should have all above nine guineas for himself, and then he agreed to endeavour to sell it. He assured the jury that he never asked, and of course he never knew, how Bishop got possession of the body.

Rosina Carpenter stated, that she lived in Nag's-Head court, Golden-lane. On Thursday, November 3, between four and five o'clock, in the afternoon, May came to her house, and remained with her until nearly twelve o'clock the next day, not once going out during that time.

Cross-examined.—May had several times passed his nights with her; she did not know whether he was married or not.

Sarah Triesly, who was examined for the prosecution, was called by Mr. Barry. She had never seen any white mice in Bishop's house.

Mary Doddswell, wife of George Doddswell, of 56, Hoxton Old Town, sworn.—I keep a clothes and sale-shop for the sale of second-hand goods. My husband is a journeyman pastry-cook. I know Bishop's wife, and sold her a cap two years ago; I should know it again now; it was a cloth cap with a black front (the cap produced for the prosecution was a fur cap).

Bishop.—My wife purchased two caps of her.

Mrs. Doddswell.—I never sold but one cap to Mrs. Bishop. I know nothing of Bishop or his family, but that his daughter lived servant with me twelve months ago.

Mary Anne Hall, of No. 4, Dorset street, New Kent Road, where May lived, stated, that on the 30th of October May went into the country, and she saw no more of him until the following Wednesday night, and then he went

to bed. The next morning he went out, and did not return until the Friday night at half-past eleven o'clock.

Mr. Thomas stood up, and addressing the court, said, he wished to repeat something he had said at Bow-street. The blood on the breeches found at May's residence was not perfectly dry when they were found.

Chief-justice Tindal having summed up, the jury found the three prisoners guilty of murder. In court, the verdict was received with silence, but in a moment it was conveyed to the immense multitude assembled outside, who evinced their satisfaction at the result by loud and continued cheering and clapping of hands. To such an extent was this expression of the popular feeling carried, that the windows of the court were obliged to be closed, in order that the voice of the recorder might be heard in passing sentence of death, which was ordered to be carried into execution on Monday the 5th.

Between their trial and execution, Bishop and Williams, or Head, made, in presence of the under-sheriff, the following

CONFESSIONS.

Newgate, Dec. 4, 1831.

I, John Bishop, do hereby declare and confess, that the boy supposed to be the Italian boy was a Lincolnshire boy. I and Williams took him to my house about half-past ten o'clock on Thursday night, the 3d of November, from the Bell, in Smithfield. He walked home with us. Williams promised to give him some work. Williams went with him from the Bell to the Old Bailey watering-house, whilst I went to the Fortune of War. Williams came from the Old Bailey watering-house to the Fortune of War for me, leaving the boy standing at the corner of the court by the watering-house in the Old Bailey. I went directly with Williams to the boy, and we walked then all three to Nova Scotia Gardens, taking a pint of stout at a public-house near Holloway-lane, Shoreditch, on our way, of which we gave the boy a part; we only stayed just to drink it, and walked on to my house, where we arrived at about eleven o'clock. My wife and children and Mrs. Williams were not gone to bed, so we put him in the privy, and told him to wait there for us. Williams went in and told them to go to bed, and I stayed in the garden. Williams came out directly, and we both walked out of the garden a little way, to give time for the family getting to bed; we returned in about ten minutes or a quarter of an hour, and listened outside at the window to ascertain whether the family were gone to bed. All was quiet, and we then went to the boy in the privy, and took him into the house; we lighted a candle, and gave the boy some bread and cheese, and, after he had eaten, we gave him a cup full of rum, with about half a small phial of laudanum in it. (I had bought the rum the same evening at the Three Tuns, in Smithfield, and the laudanum also in small quantities at different shops.) There was no water or other liquid put in the cup with the rum and laudanum. The boy drank the contents of the cup directly in two draughts, and afterwards a little beer. In about ten minutes he fell asleep on the chair on which he sat, and I removed him from the chair to the floor, and laid him on his side. We then went out and left him there. We had a quartern of gin and a pint of beer at the Feathers, near Shoreditch Church, and then went home again, having been away from the boy about twenty minutes. We found him asleep as we had left him. We took him directly, asleep and insensible, into the garden, and tied a cord to his feet to enable us to pull him up by, and I then took him in my arms, and let him slide from them headlong into the well in the garden, whilst Williams held the cord to prevent the body going altogether too low in the well. He was nearly wholly in the water of the well, his feet just above the surface. Williams fastened the other end of the cord round the paling, to prevent the body getting beyond our reach. The boy struggled a little with his arms and legs in the water; the water bubbled for a minute. We waited till these symptoms were past, and then went in, and

afterwards I think we went out, and walked down Shoreditch to occupy the time, and in about three-quarters of an hour we returned, and took him out of the well, by pulling him by the cord attached to his feet; we undressed him in the paved yard, rolled his clothes up, and buried them where they were found by the witness who produced them. We carried the boy into the wash-house, laid him on the floor, and covered him over with a bag. We left him there, and went and had some coffee in Old Street Road, and then (a little before two in the morning of Friday) went back to my house. We immediately doubled the body up, and put it into a box, which we corded so that nobody might open it to see what was in it; and then went again and had some more coffee at the same place in Old Street Road, where we staid a little while, and then went home to bed—both in the same house, and to our own beds as usual; we slept till about ten o'clock on Friday morning, when we got up, took breakfast together with the family, and then went both of us to Smithfield, to the Fortune of War—we had something to eat and drink there, and after we had been there about half an hour May came in. I knew May—but had not seen him for about a fortnight before; he had some rum with me at the bar. Williams remaining in the tap-room; May and I went to the door; I had a smock-frock on, and May asked me where I had bought it; I told him "in Field Lane;" he said he wanted to buy one, and asked me to go with him; I went with him to Field Lane, where he bought a frock at the corner shop; we then went into a clothes shop in West-street to buy a pair of breeches, but May could not agree about the price; May was rather in liquor, and sent out for some rum, which we and the woman in the shop drank together; May said he would treat her because he had given her a good deal of trouble for nothing. We then returned to the Fortune of War, and joined Williams, and had something more to drink; we waited there a short time, and then Williams and I went to the west end of the town, leaving May at the Fortune of War. Williams and I went to Mr. Tuson's, in Windmill-street, where I saw Mr. Tuson, and offered to sell him a subject—meaning the boy we had left at home. He said he had waited so long for a subject which I had before undertaken to procure, that he had been obliged to buy one the day before. We went from there to Mr. Carpue's, in Dean-street, and offered it to him in the lecture room with other gentlemen; they asked me if it was fresh, I told them yes; they told me to wait. I asked them ten guineas, and, after waiting a little, a gentleman there said they would give eight guineas, which I agreed to take, and engaged to carry it there the next morning at ten o'clock. I and Williams then returned to the Fortune of War; we found May in the tap-room, this was about a quarter before four o'clock in the afternoon, we had something to drink again, and I called May out to the outside of the house, and asked what was the best price given for "things"—he said he had sold two the day before for ten guineas each, I think. I told him I had a subject; he asked me what sort of one; I said, a boy about fourteen years old, and that I had been offered eight guineas for it; he said if it was his, he would not take it, he could sell it where he sold his for more. I told him that all he could get above nine guineas he might have for himself; we agreed to go presently and get a coach. I and May then went to the bar, had something more to drink, and then, leaving Williams at the Fortune of War, we went and tried to hire a cab in the Old Bailey. The cabman was at tea at the watering-house, and we went in and spoke to him about a fare, and had also tea there ourselves. Whilst we were at tea, the cab-driver went away, and we found him gone from the stand when we came out. We then went to Bridge-street, Blackfriars, and asked a coachman if he would take such a fare as we wanted; he refused, and we then went to Farringdon-street, where we engaged a yellow chariot. I and May got in, drove to the Fortune of War (Williams joining us by the George, in the Old Bailey, on our way). At the Fortune of War, we drank something again, and then (about six o'clock) we all three went in

the chariot to Nova Scotia Gardens, we went in the wash-house, where I uncorded the trunk, and showed May the body. He asked, "how are the teeth?" I said I had not looked at them. Williams went and fetched a bradawl from the house, and May took it and forced the teeth out; it is the constant practice to take the teeth out first, because, if the body be lost, the teeth are saved; after the teeth were taken out, we put the body in a bag, and took it to the chariot; May and I carried the body, and Williams got first into the coach, and then assisted in pulling the body in; we all then drove off to Guy's hospital, where we saw Mr. Davis, and offered to sell the body to him; he refused, saying, that he had bought two the day before of May; I asked him to let us leave it there till the next morning; he consented, and we put it in a little room, the door of which Mr. Davis locked. Williams was, during this, left with the chariot. I told Mr. Davis not to let the subject go to anybody unless I was there, for it belonged to me; and May also told him not to let it go unless he was present, or else he should be money out of pocket. I understood this to mean the money paid by May for our teas at the Old Bailey (about 4*s.*) and the coach fare, which we had agreed with the coachman should be 10*s*. May had no other interest or right to the money to be obtained for the body, except for such payment, and for what he could get above nine guineas, as I had promised him. May paid the coachman 10*s*. on our leaving the hospital, but, before we discharged the coach, May and I ran to Mr. Appleton, at Mr. Grainger's school, leaving Williams with the coach. We offered the subject to Mr. Appleton, but he declined to buy it, and May and I then joined Williams, discharged the coach, and went to a public-house close by and had something to drink. After this we got into a coach in the borough, and drove again to the Fortune of War, where we had something more to drink: this was about eight o'clock in the evening. We all three staid there about one hour, and then went out, got a coach in Smithfield, and went towards Old-street-road—stopped in Golden-lane with the coach, and drank something, and then on to Old-street. At the corner of Old-street (the Star corner) May got out of the coach, and said he was going home; and I and Williams drove to the corner of Union-street, Kingsland-road, where we got out and paid the coach-fare out of money lent us by May (he having advanced to each of us 3*s*.) We then walked home and went to bed that night as usual. We had agreed with May, on his leaving us, to meet him at Guy's hospital at nine o'clock the next morning (Saturday). I and Williams went at eight o'clock on Saturday morning to the Fortune of War, where we met Shields, the porter, and engaged him to go with us over the water to carry a subject. I asked him to go to St. Bartholomew's hospital for a hamper which I had seen there; he refused, and I fetched it myself. We had a pint of beer there, and I, and Williams, and Shields, went to Guy's hospital, Shields carrying the hamper. We met May there. Williams and Shields went to a public-house, whilst I and May went to Mr. Appleton, and offered him the subject again. He again refused to buy it, stating that he did not want it. May and I then joined Shields and Williams, and had some drink, and then left them, crossed the water in a boat to the King's college, where we inquired of Mr. Hill, the porter, if he wanted a subject; he said he was not particularly in want, but would speak to Mr. Partridge, the demonstrator. Mr. Partridge came, and asked what the subject was. May said, "a male subject." Mr. Partridge asked the price. May said, "twelve guineas." Mr. Partridge said he could not give so much, and went away. Mr. Hill asked us to stay a few minutes, whilst he went after Mr. Partridge, to speak to him again. Hill returned, and said Mr. Partridge would give nine guineas. May said, he would be damned if it should go under ten guineas. He was in liquor, and on his moving a little way off, I took the opportunity of saying to Hill, that it should come in at nine guineas. I told May directly after, that I had sold it for nine guineas, and that I would out of it pay him what I had of him, and give him some-

thing besides. We then got into a cabriolet, and went back to Williams and Shields at the public-house, where all four had some beefsteaks and beer; and afterwards went to Guy's hospital, packed the body in the hamper, and put it on to Shields's head, telling him to take it to the King's college, where we went, Williams and Shields walking, and I and May riding part of the way in a cab. On reaching the King's college we carried the body into the theatre, and then into a little room, where we took the body out. Mr. Hill looked at it, and asked what it died of. May answered that he did not know, and it did not concern him. Mr. Hill asked how a cut, which was on the forehead, came. I told him that it was done by May throwing it out of the sack on the stones, which was the truth. Hill told us to remain in the other room, and he would bring in the money. We went into the other room and waited for some time, when Mr. Partridge came to us, and showed me a fifty-pound note, and said, he must go and get it changed, for he had not sufficient money without, and he pulled out his purse and counted three or four sovereigns. I said he might let us have that, and he could give us the remainder on Monday. He said no, he would rather pay it altogether, and went away. We waited some time, when the police-officers came, and took us into custody. JOHN BISHOP.

Witness, R. Ellis.

I declare that this statement is all true, and that it contains all the facts as far as I can recollect. May knew nothing of the murder, and I do not believe he suspected that I had got the body except in the usual way, and after the death of it. I always told him that I got it from the ground, and he never knew to the contrary until I confessed to Mr. Williams since the trial. I have known May as a body-snatcher four or five years, but I do not believe he ever obtained a body except in the common course of men in that calling, by stealing from the graves. I also confess that I and Williams were concerned in the murder of a female whom I believe to have been since discovered to be Fanny Pigburn, on or about the 9th of October last. I and Williams saw her sitting about eleven or twelve o'clock at night on the step of a door in Shoreditch near the church. She had a child four or five years old with her on her lap. I asked why she was sitting there. She said she had no home to go to, for her landlord had turned her out into the street. I told her that she might go home with us, and sit by the fire all night; she said she would go with us, and she walked with us to my house, in Nova Scotia Gardens, carrying her child with her. When we got there we found the family abed, and we took the woman in and lighted a fire, by which we all sat down together. I went out for beer, and we all took of beer and rum (I had brought the rum from Smithfield in my pocket); the woman and her child laid down on some dirty linen on the floor, and I and Williams went to bed. About six o'clock next morning I and Williams told her to go away, and to meet us at the London Apprentice in Old-street road, at one o'clock. This was before our families were up. She met us again at one o'clock at the London Apprentice without her child. We gave her some halfpence and beer, and desired her to meet us again at ten o'clock at night at the same place. After this we bought rum and laudanum at different places, and at ten o'clock we met the woman again at the London Apprentice, she had no child with her. We drank three pints of beer between us there, and stayed there about an hour. We would have stayed there longer, but an old man came in whom the woman said she knew, and she said she did not like him to see her there with anybody; we therefore all went out; it rained hard, and we took shelter under a door-way in the Hackney-road for about half an hour. We then walked to Nova Scotia Gardens, and Williams and I led her into No. 2, an empty house adjoining my house. We had no light. Williams stepped out into the garden with the rum and laudanum, which I had handed to him; he there mixed them together in a half-pint bottle, and came into the

house to me and the woman, and gave her the bottle to drink; she drank the whole at two or three draughts; there was a quartern of rum, and about half a phial of laudanum; she sat down on the step between two rooms in the house, and went off to sleep in about ten minutes. She was falling back; I caught her to save her fall, and she laid back on the floor. Then Williams and I went to a public-house, got something to drink, and in about half an hour came back to the woman; we took her cloak off, tied a cord to her feet, carried her to a well in the garden and thrust her into it headlong; she struggled very little afterwards, and the water bubbled a little at the top. We fastened the cord to the palings to prevent her going down beyond our reach, and left her and took a walk to Shoreditch and back, in about half an hour; we left the woman in the well for this length of time, that the rum and laudanum might run out of the body at the mouth. On our return, we took her out of the well, cut her clothes off, put them down the privy of the empty house, carried the body into the wash-house of my own house, where we doubled it up and put it into a hair box, which we corded and left it there. We did not go to bed, but went to Shields's house in Eagle-street, Red Lion square, and called him up; this was between four and five o'clock in the morning. We went with Shields to a public-house near the Sessions-house, Clerkenwell, and had some gin, and from thence to my house, where we went in and stayed a little while, to wait the change of the police. I told Shields he was to carry that trunk to St. Thomas's hospital. He asked if there was a woman in the house who could walk alongside of him, so that people might not take any notice. Williams called his wife up, and asked her to walk with Shields, and to carry the hat box which he gave her to carry. There was nothing in it, but it was tied up as if there were. We then put the box with the body on Shields's head, and went to the hospital, Shields and Mrs. Williams walking on one side of the street, and I and Williams on the other. At St. Thomas's hospital I saw Mr. South's footman, and sent him up-stairs to Mr. South to ask if he wanted a subject. The footman brought me word that his master wanted one, but could not give an answer till the next day, as he had not time to look at it. During this interview, Shields, Williams, and his wife were waiting at a public-house. I then went alone to Mr. Appleton, at Mr. Grainger's, and agreed to sell it to him for eight guineas, and afterwards I fetched it from St. Thomas's hospital, and took it to Mr. Appleton, who paid me £5 then and the rest on the following Monday. After receiving the £5 I went to Shields and Williams and his wife, at the public-house, where I paid Shields 10*s*. for his trouble, and we then all went to the Flower Pot in Bishopsgate, where we had something to drink, and then went home. I never saw the woman's child after the first time before mentioned. She said she had left the child with a person she had taken some of her things to, before her landlord took her goods. The woman murdered did not tell us her name; she said her age was 35, I think, and that her husband, before he died, was a cabinet-maker. She was thin, rather tall, and very much marked with the small-pox. I also confess the murder of a boy who told us his name was Cunningham. It was a fortnight after the murder of the woman. I and Williams found him sleeping about eleven or twelve o'clock at night, on Friday the 21st of October, as I think, under the pig-boards in the pig-market in Smithfield. Williams woke him, and asked him to come along with him (Williams), and the boy walked with Williams and me to my house in Nova Scotia Gardens. We took him into my house, and gave him some warm beer, sweetened with sugar, with rum and laudanum in it. He drank two or three cups full, and then fell asleep in a little chair belonging to one of my children. We laid him on the floor, and went out for a little while, and got something to drink, and then returned, carried the boy to the well, and threw him into it, in the same way as we served the other boy and the woman. He died instantly in the well, and we left him there a little while, to give time for the mixtures we had given him

to run out of the body. We then took the body from the well, took off the clothes in the garden, and buried them there. The body we carried into the wash-house, and put it into the same box, and left it there till the next evening, when we got a porter to carry it to St. Bartholomew's hospital, where I sold it to Mr. Smith for eight guineas. This boy was about ten or eleven years old, said his mother lived in Kent-street, and that he had not been home for a twelve-month and better. I solemnly declare that these are all the murders in which I have been concerned, or that I know any thing of; that I and Williams were alone concerned in these, and that no other person whatever knew any thing about either of them, and that I do not know whether there are others who practise the same mode of obtaining bodies for sale. I know nothing of any Italian boy, and was never concerned in or knew of the murder of such a boy. There have been no white mice about my house for the last six months. My son about eight months ago bought two mice, and I made him a cage for them; it was flat with wires at the top. They lived about two months, and were killed, I think, by a cat in the garden, where they got out of the cage. They were frequently seen running in the garden, and used to hide in a hole under the privy. I and my wife and children saw one of them killed by a cat in the garden whilst we were at tea. Until the transactions before set forth, I never was concerned in obtaining a subject by destruction of the living. I have followed the course of obtaining a livelihood as a body-snatcher for twelve years, and have obtained and sold, I think, from 500 to 1000 bodies; but I declare, before God, that they were all obtained after death, and that, with the above exceptions, I am ignorant of any murder for that or any other purpose.* JOHN BISHOP.

Witness, Robert Ellis, under-sheriff.

I, Thomas Head, alias Williams, now under sentence of death in Newgate, do solemnly confess and declare the foregoing statement and confession of John Bishop, which has been made in my presence, and since read over to me distinctly, is altogether true, so far as the same relates to me. I declare that I was never concerned in or privy to any other transaction of the like nature; that I never knew any thing of the murder of any other person whatever; that I was never a body-snatcher or concerned in the sale of any other body than the three murdered by Bishop and myself; that May was a stranger to me, and I had never seen him more than once or twice before Friday, the 4th of November last; and that May was wholly innocent and ignorant of any of those murders in which I was concerned, and for one of which I am about to suffer death. THOMAS HEAD.

Witness, R. Ellis.

Newgate, Dec. 4, 1831.

The above confessions taken literally, from the prisoners, in our presence.

T. WOOD, R. ELLIS, under-sheriffs.

These confessions strengthened some doubts which were entertained whether the evidence connected May sufficiently directly with the murder, and his life was spared. The communication to him of the intelligence that he had been respited, almost killed him. He fell to the earth as if shot dead. His arms worked with the most frightful contortions, and four of the officers of the prison could with difficulty hold him; his countenance assumed a livid paleness, the blood forsook his lips, his eyes appeared set, and pulsation at the heart could not be distinguished. All persons present thought that he could not possibly survive, and that the warrant of mercy had proved his death-blow. It was nearly a quarter of an hour before he was restored to the use of his faculties.

*From subsequent investigation, there was every reason to believe that the boy, of whose murder these wretches were convicted, was the Italian boy, and not a Lincolnshire boy

Bishop and Williams were executed on Monday the 5th. As early as one o'clock in the morning, the crowd amounted to several thousand persons, and continued rapidly increasing. By daybreak it was estimated that not fewer than 30,000 persons were assembled. The police found it impossible to get through the crowd to their station at the foot of the scaffold, and had to be conducted through the prison. By some oversight, three chains were suspended from the gallows, as if all the three prisoners had been to suffer. The removal of one of them informed the multitude that May had been respited, and the circumstance was hailed with cheers.

Before proceeding to the scaffold, both prisoners confirmed their confessions. Bishop mounted the scaffold first. The moment he made his appearance the most dreadful yells and hootings were heard among the crowd. The executioner proceeded at once to the performance of his duty, and having put the rope round his neck and affixed it to the chain, placed him under the beam. Williams was then taken out, and the groans and hisses were renewed. The preparations were soon completed, and in less than five minutes after they appeared on the scaffold, the drop fell. Bishop appeared to die instantaneously, but Williams struggled several minutes. The moment the drop fell, the mob, who had continued yelling and shouting, gave several tremendous cheers. Numerous accidents occurred between St. Sepulchre's church and Ludgate-hill, arising from the extreme pressure of the mob. The number of dislocations and bruises was almost incredible: upwards of twenty persons, seriously maimed, were carried to St. Bartholomew's hospital before half-past seven in the morning. Notwithstanding the great strength of the numerous barriers which were erected from one end of the Old Bailey to the other, not one of them was sufficient to resist the pressure. Just at the moment the wretches were turned off, a rush took place from all directions towards the scaffold, and every barrier between the gallows and Ludgate-hill was almost simultaneously broken asunder, or torn up. Numbers were thus thrown down and trampled upon. A soldier in the guards had his arm broken, and several of the police were seriously injured.

SAWNEY CUNNINGHAM,

EXECUTED AT LEITH, 12TH OF APRIL, 1635.

THIS person had no reason to say that a good education or tuition was denied him, whereby he might have avoided the several villanous actions he afterwards committed. His family lived in tolerable good repute at Glasgow in Scotland, where he was born; but, in spite of all the learning his parents had given him, or good examples they had set before him, to regulate his passions and direct his conduct right, he abandoned himself, from his earliest acquaintance with the world, to evil practices, till at last he became a monster of profaneness and wicked living. However, these great disadvantages did not hinder him from making a very honourable marriage; for, as his parents still kept up an honest and genteel character in the neighbourhood where they lived, and as it would have been infamous to have reproached them for those miscarriages in the son which they had strove all they could to root out of his mind, and could not help, so an old gentleman, who had preserved for a long time an inviolable friendship for the family, entered into an alliance with Mr. Cunningham the elder, which at last terminated in giving his daughter to Sawney, and an estate in portion with her of above one hundred and forty pounds per annum; thinking that marriage might be a means to reclaim our adventurer from his ill course of life, and at last settle

his mind, to the mutual satisfaction of both families, for which he thought his daughter's portion would be a good purchase, and well laid out. Sawney no sooner found himself in possession of an estate able to support his extravagances, but he immediately gave a greater scope to his passions than he had hitherto done. He made taverns and ale-houses the frequent places of his resort; and, not content to waste the day in debauchery and drunkenness, the night too was passed in the same manner. These steps could not but be attended with hurtful consequences, and he was too soon an eyewitness of some of them; for not having always wherewithal to indulge his usual expenses and method of living, he was forced to have recourse to indirect measures, which ended in pawning every thing he had, not only of his wife's, but of his own. Sawney laughed at his follies, and could not bring himself to believe he should ever want, while he had either hands or heart to support him. He was determined to enter upon business as soon as possible; we mean such business as generally brings so many unhappy men to the gallows. His wife, who was beautiful and handsome, saw this; and, with a prudence that became her sex, had some time stifled her uneasiness, till no longer able to bear the torment upon her mind, she entreated him, since all they had in the world was gone, to fall into some honest way of livelihood to support themselves, for it was much and more commendable to do so, than for him to give his countrymen every day so many instances of his riotous and profuse living. Had Sawney given ear to this remonstrance, without doubt, things had succeeded well, and we should never have read the miserable end he suffered. But all admonition was lost on a man abandoned to wickedness, and determined to support his usual extravagances at any rate. The poor young woman, instead of being answered civilly for her love and affection to him, met with nothing but harsh and terrifying words, attended with a thousand oaths and imprecations. The parents, on both sides, observing this, were in extreme grief and concern; and determined, after a serious consultation, to dissolve the couple; but the young and handsome wife would never consent to part from her husband, though so base to her.

It was impossible for Mrs. Cunningham to hide the charms of her face and person in Glasgow, where there is a university, and consequently, young gentlemen of fortune and address. Several immediately offered their respects, and money was not wanting to promote their suits; but she could not endure to think of dishonouring the bed of her husband, by a base compliance with the richest man in the kingdom; and always put off her suitor with a frown, and a seemingly disdainful air. But this only served to animate her lovers the more, who now seemed to attack her with a resolution not to quit the siege till she had either capitulated or surrendered herself. Among the rest was a certain lawyer, who was so frequent in his importunities, that she was quite tired out. However, she was so discreet all the while, as to conceal from her husband Sawney the importunities of her several lovers; but their solicitations increasing, and being determined to be delivered of them as soon as possible, she, one night, as she lay in bed with her husband, began to discourse with him to the following effect:

"You are sensible, my dear, of the inviolable love I have, from the first day of our marriage, preserved for you, which shall still, let whatever will happen, be as chastely maintained. As a proof of what I tell you, I have been strongly importuned by Mr. Hamilton, the lawyer, to consent to his embraces, but still I have warded off from his addresses, though I cannot be free from him; which makes me now desirous to hear your opinion in the matter, and see which will be the safest and best expedient to be delivered of his company."

Here she ended, and Sawney, being thoroughly convinced of his wife's loyalty and fidelity, first answered her with a desire she should forget all his irregularities, confessing their present poverty had been the immediate consequence of his too liberal and profuse living; but that, for the future, she

should see a good alteration in his conduct, and he would make one of the best of husbands.

"As for Mr. Hamilton," said he, "it is my advice that you do not give him an absolute refusal; but pretending a kind of love at a distance, make him think that a considerable sum of money will finish his expectations, and gain him what he so much longs for; you have youth and beauty on your side, and you may, consequently, command him as you please; for I am not so much a stranger to Mr. Hamilton's temper and inclination, but that I know love will influence him to perform generous things: my dear, I have no occasion to acquaint you with our poverty at this time, but our wants and necessities may be amply made up by dexterously managing this adventure, the prosecution of which I leave to your own prudence and conduct; and, for my part, I shall take effectual care to extricate you and myself out of any consequence that may happen upon it."

Mrs. Cunningham, after this conference with her husband, had a thousand thoughts in her head, how to manage this scheme, so as to make the most advantage of it: she saw that the want of money in her family must oblige her to it, though extremely against her inclination; and, therefore, determining to put it in execution as soon as possible, she composed herself to rest for that night. The next day Sawney went purposely out of the way, not without a longing expectation of deriving extraordinary advantage from his wife's conduct. Hamilton appeared as usual; and, protesting his love for her was the sincerest in the world, said, that it was impossible for him to enjoy a moment's rest, without tasting those joys she could so easily afford him. Mrs. Cunningham, at first, reproved him for such a bare declaration of his desires, and said:

"That so long as her husband lived, she could not, without the most manifest breach of conjugal fidelity, and an eternal infamy to herself, give way or comply with his demands. Your person, Mr. Hamilton," said she, "is none of the worst, neither is your sense to be despised; but, alas! heaven has decreed it, that I am already another man's wife, and therefore deprived from gratifying you as I would were the case otherwise. And I have apprehensions of my husband, who is a choleric person, and urged to passion upon the most trifling affair, which either he doth not like, or squares not with his happiness or interest."—"Interest," replied Hamilton, "why, if that be the case, neither your husband nor you shall have any reason to complain; for, let me tell you for once and all, I do not require a gratification from any one without making a suitable return; your circumstances, madam, are not unknown to me, and I am sorry to think that, after having brought Mr. Cunningham so plentiful a fortune, I should have a just occasion to say that you are poor; but, mistake me not, I scorn to make a handle of your circumstances; neither do I believe Mrs. Cunningham would ever consent to my desires on such servile terms."

Upon this madam answered him with a great deal of prudence and art; she told him, "that he pleaded handsomely for himself, and if she was not a married woman, there should be nothing to obstruct their desires."

Mr. Hamilton hearing this, made her a long harangue, in which he endeavoured to show how weak her objection was, with respect to her husband, concluding, that what they did might be so artfully contrived that neither Mr. Cunningham nor the world should know any thing of it. In fine, the lawyer pleaded as if it were for life, for her consent, which madam observing, and not caring to prolong the time too far, but despatch a great deal of business in a little time, artfully told him, "that since her stars had so directed the actions of her life, that she had no power of herself to contradict them, she resigned herself to him, and said, that it was to no purpose to stifle her inclinations for him any longer; for, to be plain with him, she had loved him from their first acquaintance together, before all the men she had ever seen,

and that she hoped there was no transgression in an affair which her destiny ruled; and if the world proved censorious, she did not care."

In short, an assignation was made, and a porch of one of the churches in Glasgow designed to be the place where these two lovers were to meet. Nothing in the world gave the lawyer so much satisfaction as the thought of having obtained the consent of his fair mistress, who had declared her love to him, and resigned herself up to his arms. Hamilton promised to make her a present of a purse of a hundred pounds sterling; and she on her side assured him, that he might expect all the kindness she was able to afford him. Here they parted, and the lawyer thought the time very long till the hour appointed was come. It arrived, and both appeared in the porch. Hamilton wanted to know where Mr. Cunningham, her husband, was; and was informed, that he was gone a short journey into the country, which, however, would take him up eight days; whereas madam had posted him, or he had done it himself, in a private place in his chamber at home. Hamilton seemed extraordinarily pleased at his success, and the repose he should find in indulging his passion, now his antagonist was out of the way, as he thought. In a little time both went to Sawney's house, and having entered his bed-chamber, where he was concealed, and a good fire burning, Mr. Hamilton pulled out two purses of gold and gave them to her, and then going to undress himself, Sawney sprang out of his hiding place, and with one stroke of a club he had in his hand, knocked Mr. Hamilton down; not contented with his wife's having received the two purses of gold, he determined to have the lawyer's clothes too; and therefore redoubled his blows, till the poor gentleman died at Mrs. Cunningham's feet. Mrs. Cunningham, not dreaming her husband would have carried matters to such an issue, seemed frightened to the last extreme at what had been done; but Sawney endeavoured to give her ease, by telling her, that he would work himself out of the scrape immediately, and so saying hoisted the body on his shoulders, and went out at a back-door which led directly to Hamilton's house, which easily opening, and the darkness of the night favouring him, he carried the lawyer to the vault, and placed him upright on the seat, to the end that the first who found him there might conclude he had died in that place and posture.

It seemed Mr. Hamilton had the day before acquainted a particular friend who lived in his house with his success, and how he was to have a meeting with Mrs. Cunningham that night. This friend, having a very violent looseness, rose about midnight in his night-gown, and stept down to the vault, where opening the door, he spied Mr. Hamilton sitting; and imagining that he was come there on the very same errand as himself, he stayed without a considerable time, to his own uneasiness, till finding his friend did not stir, he opened the door again, and taking him by the sleeve of his coat, was surprised to find him fall down. He stooped to take him up, but found him dead; upon which, being in a great perplexity, he called to mind his acquainting him with the assignation between him and Mrs. Cunningham; he concluded his friend had found no fair play there, knowing the husband to be none of the easiest of men. Fearing that he himself should be thought the murderer, he took up the body upon his shoulders, and carried it to Sawney's house-door, where he set it down. Madam, a little after midnight, having occasion to go down, got out of bed, and opening the door, let the body of her late lover tumble into the house, which putting her into a fright, she ran up-stairs into the chamber, and told Sawney that the lawyer was come back. "Ay, ay," says he, just waking out of his sleep, "I'll warrant he shall come back no more, I'll secure him presently;" and so saying, sprung immediately out of bed, put on his clothes, and hoisted the dead lawyer once more on his shoulders, with a design to carry him to the river and throw him in, but seeing some persons, at some distance, coming towards him, he stepped to the side of the street till they were got by, fearing his design might be discovered. These persons were half a dozen thieves, who were returning from a plunder

they had made of two large flitches of bacon, out of a cheesemonger's shop; and as they came along were talking of a vintner hard by, who sold a bottle of extraordinary wine. Sawney was somewhat relieved from his fears at hearing this conversation. He had not been at his post long, before he had the satisfaction of seeing this company put their bacon, which was in a sack, into an empty cellar, and knock the master of the tavern up to let them in. The coast being now clear, Sawney conveyed the dead lawyer into the cellar, and taking out the purloined goods, put his uneasy cargo in the sack, and then marched home. Meanwhile, the thieves were carousing, little dreaming what a change they should presently find in their sack. Little or no money was found amongst them, and the flitches were to answer the full reckoning, so that they continued drinking till they thought the bacon was become an equivalent for the wine they had drank. One of them, addressing the landlord, told him:—

"That he must excuse him and his comrades for bringing no money in their pockets to defray what they had expended, especially at such an unseasonable time of night, when he had been called out of his bed to let them in; but, landlord, in saying this, we have no design of doing you any wrong, or drinking your wine for nothing. For we have got two flitches of bacon in a cellar hard by, which will more than answer our expenses; and if you care to have them, they are at your service."—"Gentlemen," said the vintner, "if the flitches of bacon you say you have are good, I'll take them off your hands, and quit scores with you, so they but answer my demands."

Immediately one of them said he would go and fetch them, and accordingly, coming into the cellar, strove to hoist the sack up:—"Zounds," says he, "why, I think the bacon is multiplied, or I am deceived. What a load is here to gall a man's shoulders; the vintner will have a rare bargain."

And so saying, he carried the corpse on his shoulders to the tavern. On opening the mouth of the sack, they were surprised to see a man's head peep out. The vintner presently knew the lineaments of the deceased's face, and cried out, "rascals, this is the body of Mr. Hamilton, the lawyer, and you have murdered him."

At this all the six were in the utmost horror and confusion, and really appeared like the guilty persons. But the vintner, observing them endeavouring to get away, made such a noise of murder that immediately all the family were out of their beds, and the watch at the house-door, to know the reason of such an alarm. The thieves were instantly conveyed to a place of durance for that night, and in the morning were sent to the main prison, when after a little time, they took their trials, were found guilty of Mr. Hamilton's death, and executed accordingly.

Sawney came off very wonderfully from this matter, though neither his wife's admonitions, nor his own frequent asseverations to her to leave off his irregular course of life, were of any force to make him abandon it; the bent of doing ill, and living extravagantly, was too deeply rooted within him, ever to expect any reformation to take place. He began to show himself a monster in iniquity, and committed every wickedness that could exaggerate the character of a most profane wretch. For it is impossible to enumerate, much more to describe, the quantity of his villanies, they being a series of such horrid and incredible actions, that the very inserting them here would only make the reader think an imposition were put upon him in transmitting accounts so shocking and horrible. The money he had obtained of Mr. Hamilton was a dear purchase; it was soon played away with and consumed, which made him throw himself on other shifts to support his pockets; to which end he visited the highway, and put those to death who offered to oppose him. His character was too well known in the west of Scotland, to want any further information about him, which obliged him to hasten to Edinburgh; where, meeting with a gang of his profession, who knew him to be the most accomplished in their way, he was constituted general of their body, and

each man had his particular lodging in the city. But Sawney, who ever chose to act the principal part in all encounters, industriously took lodgings at a house noted for entertaining strangers, where he was not long in insinuating himself into their acquaintance, by making them believe that he was a stranger as well as they, and was come to Edinburgh on no other account than purely to see the city, and make his observations upon its public buildings, and other curiosities, and that his ambition had been always to procure honest and genteel acquaintance. Sawney had a most artful method to conceal the real sentiments of his mind, and hide his actions, which, in a little time, so gained upon the belief of these strangers, that they could not help believing him to be one of the sincerest men breathing; for it was his custom sometimes to take them along with him two or three miles out of the city, to partake of some handsome dinner or supper, when he was sure never to let them be at a farthing expense, but generously discharged the reckoning himself; the design of all this was to make his advantage of them, and force them to pay an extravagant interest for the money he had been out of pocket in treating them; for constantly were persons planted in one place or other of the road, by his immediate direction, who fell upon them as they returned to the city, and robbed them of what they had; but, to avoid suspicion, they always made Sawney their first prize, and rifled him, who was sure, in the morning, to obtain his own loss back again, and a considerable share of the other booty into the bargain.

Some time after this, our adventurer, with two of his companions, meeting on the road with three citizens of Edinburgh, affronted them in a very audacious manner, and used such language towards them as plainly discovered that either death or bloodshed was near at hand. He told the person who seemed the genteelest and best dressed of the three, that the horse he rode on was his, and had been lately stolen from him, and that he must return it him, or else the sword he wore should do him right. Sawney's companions began with the others after the same manner, and would needs force them to believe that the horses they rode upon were theirs; the citizens, astonished at this gross piece of impudence, endeavoured to convince them the horses were their own, and that they had paid for them, and wondered how they dare pretend to dispute such an affair; but these words were far from having any effect on Cunningham; and the citizens, in the conclusion, were forced to dismount and give them their horses and money into the bargain, being somewhat consoled that they had suffered no worse consequences, for Sawney, by this time, was drenched in all manner of villany, and bloodshed was now accounted a trifle, so little value did he set on the lives of any persons.

Sawney having run a merry course of roguery and villany in and about Edinburgh for some time, where he made a considerable advantage to himself, so that fortune seemed to have requited him for all the poverty and want he had before endured, determined now to go home to his wife, and spend the remainder of his days agreeably with her, on the acquisitions and plunder he had made on his countrymen. Accordingly, he came to Glasgow, where, among a few acquaintances he conversed with, for he did not care to make himself too public, he gave signs of amendment, which at first they could hardly be brought to believe in. One night, being in bed with his wife, they had a close discourse together on all their foregoing life, and the good woman expressed an extraordinary emotion of joy at the seeming alteration and change in her husband; she could not imagine what reason to impute it to; for she had been so much terrified from time to time with his barbarities, that she had no room to think his conversion was real; neither, reflecting on the many robberies and murders he had committed, could she persuade herself that he could so soon abandon his licentious and wicked courses; for she supposed, if his altered conduct was real, it was miraculous, and an original piece of goodness hardly to be met with. The sequel will prove that this woman had juster notions of her husband than the rest of his acquaintance,

and those that knew him, and that she built all her fears on a solid and good foundation, as we shall endeavour to show in its proper place. For all the signs he gave of an altered conduct, and all the plausible hints to rectify his former and mistaken steps, were no other than only to amuse the world into a good opinion of him, so that he might make his advantage of it with the greater freedom and impunity. And he was not out in his aim; for it seems whenever he committed any thing sinister, or to the disadvantage of any of his countrymen, and he was pitched on as the transgressor, the town would say, "It could not be, for Mr. Cunningham was too much reclaimed from his former courses ever to give into them again."

We shall insert a very notable adventure Sawney had with a fortune-teller; to which end we shall trace it up from the fountain-head, and give our readers the first cause that induced him to it. When Sawney was an infant, he was put out to nurse to a poor countrywoman, in a little village, a mile or two out of Glasgow; the woman, as the boy grew up, could not help increasing in her love for him, and would often say to her neighbours, "Oh! I shall see this lad a rich man one day." This saying coming to the ears of his parents, they would frequently make themselves merry with it, and thought no more of it, than as the pure result of the nurse's fondness. Sawney having enriched himself with the spoils about Edinburgh, actually thought his old nurse's words were verified, and sent for her to give her a gratification for her prediction. She came, but Sawney had so disguised himself that the poor woman did not know him. He told her that he was an acquaintance of Mr. Cunningham's, who, on her coming, had ordered him to carry her to Mr. Peterson, the astrologer, where she would be sure to see and speak to him; for he was gone there to get some information about an affair that nearly concerned him. The nurse and her pretended conducter went to the fortune-teller's, where, desiring admittance, Peterson thought they were persons that wanted his assistance, and bade them sit down, when Sawney began to harangue upon astrology, and the laudable practice of it.

"I and this old woman," said he, "are two of the most accomplished astrologers, or fortune-tellers, in Scotland; but I would not, reverend sir, by so saying, seem to depreciate from your knowledge and understanding in so venerable a science. I came to communicate a small affair to you, to the end that, not relying on my judgment and this woman's, I might partake of yours. You are to know, sir, that, from six years of age, I have led a very untoward life, and have been guilty of many egregious sins, too numerous to tell you at present, and what your ears would not care to hear; for my employment has been to make myself a sharer of other people's money, bilk my lodging, and ruin the vintners; for a bottle I have sold the twelve signs in the zodiac; and if I had not a profound respect for the persons of my venerable order and profession, I should call Mercury the ascendant in the fourth house, at this minute, to lug half a score pieces of yours. By my exceeding deep knowledge in astrology, I can perfectly acquaint all manner of persons with every occurrence of their lives, and were it not to frighten yourself, I would conclude, from the appearance and conjunction of Saturn and Vulcan, that your worship would be hanged for your profession. But, sir, though destiny hangs this unfortunate death over your head, it is at some distance from it, and may be some years before it strikes you. Is it not surprising that a man shall be able to read the fates of mankind, and not have any pre-knowledge of his own? and is it not extremely afflicting to think, that one who has done so much good in his generation, and assisted so many thousands to the recovery of things that would have been inevitably lost without his advice, should come at last to the ignominious halter, as a fit recompense for his services? Good heavens! where is the equity of all this? Certainly, sir, if we are to measure the justice of things by the laws of reason, we must naturally conclude, that laudable and good actions deserve laudable and good recompense;

but can hanging be said to be this good recompense ? No; but the stars will have it so, and how can mankind say to the contrary ?"

Cunningham paused here awhile, and the astrologer and old nurse wondered whom they had got into company with. Mr. Peterson could not help staring at the physiognomy of our adventurer, and, in spite of himself, began to be in a panic at his words. The nurse was in expectation of seeing Sawney come in every minute, little dreaming the person she was so near was the man she wanted.

"Well, venerable sir," said he, "do not be terrified at my words, for what cannot be avoided must be submitted to. To put you out of your pain, I'll tell you a story. A gentleman had a son, who was his darling, and consequently trained up in all the virtuous ways that either money could purchase, or good examples teach. The youth, it seems, took to a laudable course of life, and gave promising signs of making a fine man; nor, indeed, were their expectations deceived; for he led a very exemplary life of prudence, excellent conduct and good manners, which pleased the parents so much, that they thought every thing they could do for him too little. But the mother, out of an inexpressible fondness for him, must needs go to an astrologer, and inquire how the remaining part of his life must succeed. Accordingly the horoscope is drawn, but a dismal appearance results from it; it acquaints the mother that her son shall remain virtuous for two-and-thirty years, and then be hanged. 'Monstrous and incredible !' says she, 'but I'll take care to secure him in the right way; or all my care will be to no purpose.' Well, the family are all soon acquainted with this threatening warning. The person determined to be the sacrifice is already nine-and-twenty years old, and surely, they suppose, they can easily get over the other three years, when all shall go well with their kinsman. But what avails all the precautions of mankind ? This same son obtains a commission of a ship, goes to sea, and, acting quite contrary to his orders, turns pirate, and in an encounter, happens to kill a man, for which, on his return to his native country, he is tried, condemned, and hanged. What think you of this, venerable brother ? Is not he a sad instance of an overruling influence of the stars ? But not to prolong too much time on a discourse of this nature, let us come to the purpose. You are now, as I cannot do it myself, to tell me my fortune, and this old woman is to confront you if you tell me a lie. There is no excuse to be made in the matter; for by heavens, on your refusal, I'll ease this room of your damnable trumpery, and send you packing to the devil after them."

These words were enough to frighten any man out of his senses; nor could Peterson well discover the intention or drift of his talkative and uneasy visitant.

"What would you be at ?" says the astrologer.

"Why, do not you see what a terror you have put that good woman into, who trembles like an aspen leaf ?"

"I am not used, friend, to have persons come into my house, and tell me to my face, that I am to be hanged, and then to confirm it, as you pretend, tell me an old woman's story of a cock and a bull, of a young man that went to sea, and was hanged for robbing, for which he certainly deserved the punishment he met with. As for telling your fortune, I'll be so plain with you, that you'll swing in a halter as sure as your name is Sawney Cunningham."

"Sawney Cunningham," quoth the nurse, who, straightway throwing her arms about his neck, began to kiss him very eagerly, and looking earnestly in his face, cried aloud; "And art thou Sawney Cunningham! why I thought thou wouldst come to be a great man, thou wast such a Scotty lad."

"Do you see now," says Sawney, "what a lie you have told me, in impudently acquainting me that I shall be hanged, when my good prophetess here tells me I am a great man; for great men never can be hanged."

"I don't care for what she says, nor you neither, for hanged you'll be, and that in a month's time, or else there never was a dog hanged in Scotland."

"Pray, brother, how came you to know this without consulting my horoscope?"

"Know it—why your very condition tells me you have deserved hanging this dozen years; but the laws have been too favourable to you, else Mr. Hamilton's death had been revenged before this time of day. Now, to convince you of my superior knowledge in astrology, I mean, in telling how far their influence extends over any man's actions, I'll point to you the very action and persons that will bring you to the gallows. This very day month you shall go (in spite of all your foresight and endeavours to the contrary) to pay a visit to Mr. William Bean, your uncle by your mother's side, who is a man of unblamable character and conversation. Him shall you kill, and assuredly be hanged."

Sawney having observed the air of gravity wherewith Mr. Peterson delivered his words, could not help falling into a serious reflection about them; and, thinking the place he was in not convenient enough to indulge he thoughts he found rising within him, abruptly left the fortune-teller, and giving his old nurse five shillings, returned home.

After having seriously pondered on the several particulars of Peterson's words, he could not for his heart but think that the old man, in order to be even with him for telling him of being hanged, had only served him in his own coin; so that after a few hours every syllable was vanished out of his mind, and he resolved to keep up to his usual course of life.

We draw on to his last scene now, which shall be despatched with all the brevity we are masters of. Sawney, having escaped many dangers, and run through many villanies with impunity, must needs go to his uncle Bean's house to pay him a visit, with no other design than to boast to him of his late successes, and how fortune had repaired the injuries his former misconduct and remissness had done him. He went, and his uncle, with his moral frankness, bade him sit down, and call for any thing his house could afford him.

"Nephew," says he, "I have desired a long time to see an alteration in your conduct, that I might say I had a nephew worthy of my acquaintance, and one to whom I might leave my estate, as deserving of it; but I am acquainted from all hands, that you go on worse and worse, and rather than produce an amendment, abandon yourself to the worst of crimes. I am always willing to put the best interpretation I can upon people's conduct; but when so many fresh reports come every day to alarm my ears of your extravagancies and profuse living, I cannot help concluding but that the greatest part of them are true. I will not go about to enumerate what I have heard, the discovery of mistakes only serving to increase one's uneasiness and concern. But methinks, if a good education, and handsome fortune, and a beautiful and loving wife, could have done any service with respect to the reclaiming you, I should have seen it before now Your wife has been an indulgent and faithful friend to you in all your misfortunes; and the lowest employment in life, could you but have confined yourself, would have proved more beneficial, and secured your character. and the esteem of your family and friends, better than the ways you now tread in. I am sensible my advice is insignificant, and men of my declining years are little valued or thought of by the younger sort, who, in this degenerate age, think none wiser than themselves, and are above correction and reproof. Come, nephew, Providence may allot you a great many years more to run, but let them not be such as those already past, if Heaven should grant you the indulgence. If I could build any hopes on a good foundation, that you would yet repent, methinks I could wish to have vigour and strength to live to see it; for what my satisfaction would be then, none are able to declare, but such only as are in the like case with myself. Our family has maintained an unspotted character in this city for some hundreds of years, and should you be the first to cast a stain upon it, what will mankind or the world say. You may depend that the load of infamy will be thrown on your back, for all who know, or have heard the least of us, will clear

us of the dishonour, as knowing how well you were educated, how handsomely fitted out for the world, and how well you might have done. If fame says true, you are to be charged with Mr. Hamilton's death; but I cannot bring myself to think you would ever be guilty of so monstrous an impiety. It seems he had been your benefactor, and several considerable sums of money he had given you, in order to retrieve your lost circumstances; but was to give him his death the way to recompense him for his kindness? Fie on it. Not pagans, or the worst of infidels, would repay their benefactors with such usage; and shall we Christians, who boast so much above them, dare to do that which they abhor from their souls? It cannot be, nephew; but all thoughts of humanity and goodness are banished from your mind, otherwise some tincture would still have remained of Christian principles, that would have told you, you were highly indebted to that good and eminent lawyer's bounty. I am more diffusive on this head, because it requires a particular disquisition; neither mistake me in this matter, for I am not determined to rip up things to the world, in order to blacken your character more than it is already, nor to bring you under condemnation; only repent, and lead a more sober life for the time to come, and all the wishes and expectations of your friends and family are then fully answered. First, endeavour to reconcile your passions to the standard of reason, and let that divine emanation conduct you in every action of your future life; so will you retrieve the time you have lost, patch up your broken reputation, be a comfort to your family, and a joy to all who know you. Ill actions seem pleasing in their commission, because the persons that pursue them have some aim of advantage in doing them; but let me tell you, there is nothing in the world like a virtuous pursuit, though the road is beset with thorns and briers; but there are inexpressible delights and pleasures in that wilderness, which not all the vices in the world can balance. This exhortation probably may be the last that may come from my lips; but, indeed, you have need of advice every moment, and want the leading-strings of a child, yet neither want you sense or understanding: how comes it then, you make such bad use of them? Are not all the miserable catastrophes of profuse and wicked livers sufficient to deter you from your licentious course of life? If gibbets and gallows could have any influence on a mind, unless lost to all sense of goodness, certainly the melancholy ends so many monthly make here, should be a means of opening your eyes and reclaiming you. But, alas! the wound, I fear, is too deep, and no medicines can now prevail; your enormities are of such an egregious dye, that no water can wash it out. Well, if neither the cruel consequences of an iniquitous and misspent life, nor all the advice which either your friends and relations can give you; if good examples, terrors, or death, cannot awaken you from your profound lethargy and inactivity of mind, I may well say your case is exceedingly deplorable, and what, for my part, I would not be involved in for ten thousand worlds. You cannot but surely know what you have to depend on, now your friends and relations abandon you, for you are styled a murderer; and the man that has once dipt his hands in blood, can never expect enjoyment of any felicity either in this or the next world; for there is an internal sensation, called conscience, which brings an everlasting sting along with it, when the deeds of the body are heinous and black. Indeed, some may pretend to stifle their iniquities for a considerable time, but the pause is but short; conscience breaks through all the barriers, and presents before the eyes of the guilty person his wickedness in frightful colours. What would not some give to be relieved of their racking nights and painful moments? When freed from the amusements of the day, they might wish to rest, but cannot. 'Tis then that Providence thinks fit to give them a foretaste of those severities, even in this life, which will be millions of times increased in the next."

Here the good old man shed a flood of tears, which pity and compassion had forced from his eyes; nor could Sawney forbear shedding a tear or two at

hearing; but it was all pretence, and an imitation of the crocodile; for he was determined to take this reverend old gentleman out of the world, to get possession of his estate, which, for want of male issue, was unavoidably to devolve upon him after his death. With this view, after he had made an end of his exhortation, he stepped up, and without once speaking, thrust a dagger into his heart, and so ended his life; and, seeing the servant-maid come into the room at the noise of her master's falling on the floor, cut her throat from ear to ear; and then to avoid a discovery being made, set fire to the house, after he had rifled it of all the valuable things in it; but the Divine vengeance was resolved not to let this barbarous act go unpnnished: for the neighbourhood observing a more than ordinary smoke issuing out of the house, concluded it was on fire, and accordingly unanimously joined to extinguish it, which they effectually did; and then, in going into the house, found Mr. Bean and his maid inhumanly murdered. Our adventurer was got out of the way, and no one could be found to fix these cruelties upon; but it was not long before justice overtook Cunningham, who being impeached by a gang of thieves that had been apprehended, and were privy to several of his villanies, he was taken up, and committed a close prisoner to the talbooth, where so many witnesses appeared against him, that he was condemned and hanged at Leith, the 12th of April, 1635.

When he went to the place of execution, he betrayed no signs of fear, nor seemed any way daunted at his approaching fate. As he lived, so he died, valiantly and obstinately to the last, unwilling to have it said, that he, whose hand had been the instrument of so many murders, proved pusillanimous at the last.

SARAH MALCOLM,

FOR MURDER.

Sarah Malcolm was indicted for the murder of Ann Price, spinster, by wilfully and maliciously giving her with a knife one mortal wound on the throat, of the length of two inches, and the depth of one inch, on the 4th of February, 1733, of which wound she instantly died.

She was a second time indicted for the murder of Elizabeth Harrison, spinster, by strangling and choking her with a cord, on the said 4th of February, of which she instantly died.

She was a third time indicted for the murder of Lydia Duncomb, widow, by strangling and choking her with a cord, on the said 4th of February, of which she instantly died.

She was again indicted for breaking and entering the dwelling-house of Lydia Duncomb, widow, and stealing twenty moidores, eighteen guineas, one broad piece, value twenty-five shillings; four broad pieces, value twenty three shillings each; one half-broad piece, value eleven shillings and sixpence; twenty-five shillings in silver; a silver tankard, value forty shillings; a canvass bag, value one shilling; and two shifts, value twelve shillings, on the said 4th of February, about the hour of two in the morning of the same day.

To all of which indictments she pleaded, Not Guilty.

The counsel, having opened the indictment, called the following witnesses.

John Kerrel deposed thus: The prisoner has been my laundress about a quarter of a year. She was recommended to me by a gentleman in the Temple. On Sunday, the 4th of this month, as I returned from commons, I met Mr. Gehagan, and going with him through Tanfield court, we found a mob there, and inquiring what was the matter, were told of the murders that had

been committed. Mr. Gehagan then said, this Mrs. Duncomb was your Sarah's (the prisoner's) acquaintance. We went forward to the coffee-house in Covent-garden; there we heard several discoursing about these murders, and it was the general opinion that they must have been committed by some laundress, who was acquainted with the chambers. From thence we went to the Horse-shoe and Magpie, in Essex-street, where we staid till one in the morning, and then returned home. I found my door open, and the prisoner in the room. Sarah, said I, are you here at this time of the morning? you knew Mrs. Duncomb; have you heard of anybody that is taken up for the murder? No, said she, but a gentleman who had chambers under her has been absent two or three days, and he is suspected. Said I, nobody that was acquainted with Mrs. Duncomb shall be here till the murderer is found out; and, therefore, take up your things and get away. In the mean time Mr. Gehagan went down to call the watch, but he could not find the door readily, and so he came up again, and I went down to call two watchmen, and brought them up, and I found her turning over some linen in my drawers. I asked who it belonged to? She said it was her own. I went into the closet, and missing my waistcoats, I asked her what she had done with them? She called me aside, and said she had pawned them at Mr. Williams's, in Drury-lane, for two guineas, and prayed me not to be angry. I told her I was not so angry on that account, but I suspected she was concerned in the murder. The next thing I took notice of, was a bundle lying on the ground. I asked what it was. She said it was her gown. And what's in it, said I? Why, linen, says she, that is not proper for men to see; and so I did not offer to open it. I searched farther, and missed several things of my own, and found other things that did not belong to me; and then I charged the watch with her, and bade them take her away, and take care of her. When she was gone, I found another bundle in my bed-chamber. Upon this I called to Mr. Gehagan, and showed it to him; whereupon we resolved to make a thorough search; and so I looked in the close-stool, where we found some more linen, and a pint silver tankard, with a bloody handle. We then went to one of the watchmen again, and he said he had let her go, upon her promising to come again at ten o'clock in the morning. I bade him find her out, by all means. He called to his brother watchman at the gate, and they went out and brought her to me. I showed her the bloody tankard and linen, and asked her if they were her's? She said yes, they were left her by her mother. I asked her how the handle of the tankard came to be bloody? She said she had cut her finger; and as for the linen, she said, it was not blood upon it, but a disorder.

Counsel.—What kind of linen was it; did you open the bundle?

Kerrel.—I opened that which I found in my bed-chamber; but my confusion was so great, that I don't know whether it was shifts or aprons. She told me the tankard had been in pawn, and that she had pawned my waistcoats to redeem it. The watchman carried her to the watch-house, and there they found a green silk purse with twenty-one counters in her bosom.

Court.—Are you positive that she owned the tankard and linen to be her's?

Kerrel.—Yes; but the linen in her gown was left unopened, till after she was sent to the watch-house.

Prisoner.—Was the linen you found in the close-stool bloody?

Kerrel.—I am not sure whether it was that or the linen that was found under my bed that was bloody, for I was very much surprised, and I brought down the one parcel, and Mr. Gehagan brought another, and we threw them down in the watchman's box, and so they were mixed together.

Court.—Show the tankard to the jury, and unseal the linen, and let them see that too, and the other things.

Kerrel.—This is the green silk purse that was found upon her in the watch-house; she said she found it in the street; but somebody taking notice it was clean, she said, she had washed it since. This is the gown that some

of the linen was wrapped in, and this is the bloody apron that was found under my bed, and which, she said, was not bloody, but marks of a disorder.

Prisoner.—Was the linen wet or dry?

Kerrel.—I can't say which, but it was bloody.

Prisoner.—Did you take it up?

Kerrel.—I took up that under the bed and in the close-stool. The clean linen that was in the drawers she took out herself, and the watchmen afterwards fetched away that which was in the gown.

Prisoner.—Was the gown bloody, or the shift bloody in the sleeves or bosom, or anywhere but in the lower part?

Kerrel.—I cannot say.

Court.—Is the shift here?

Kerrel.—Yes.

Court.—Produce it then, and let somebody look on it.

Ann Oliphant (looking on it).—I think here's a little blood on the upper part of the bosom.

Prisoner.—Upon your oath, is it blood or a stain?

Ann Oliphant. I cannot be positive; but it seems like the rest.

Prisoner (to Mr. Kerrel).—Did you suspect me on account of finding me in your chambers so late on Sunday night, or was it because you saw me counting money there on Sunday morning?

Kerrel.—I saw no money that you had on Sunday morning. I suspected nothing of you till I found you so late in my chamber.

Prisoner.—Swear him if he did not see me counting money in the morning, or if he did not count it after me.

Kerrel.—No, I did not.

Prisoner.—Did you not count £90 in your own bed after me?

Kerrel.—No; I say, I know nothing of it. If you had so much money, you might have fetched my things out of pawn.

Prisoner.—What! did you not reckon how many broad pieces and moidores, and how much silver there was?

Kerrel.—No; if I had, I should have suspected you afterwards; but I had not then heard of the murder, for it was not known till two in the afternoon; and after I had heard it I went to the coffee-house, and did not return home till one o'clock on Monday morning. If I had seen you have so much money on Sunday morning, I should have had such a suspicion of you, when I first heard of the murder, that I should have come home directly.

Prisoner.—'Tis hard that he will deny, upon his oath, what he did with his own hands.

Court.—What time in the morning was this?

Prisoner.—About nine o'clock; and he asked me where I had it; and I told him from some relations in the country.

Court.—What time did she come to your chamber?

Kerrel.—About nine in the morning: I sent her for some tea. Mr. Gehagan breakfasted with me, and she staid till about ten o'clock, when the horn sounded for commons.

Counsel.—There was, you say, clean linen taken out of the drawers; was there any blood upon it?

Kerrel.—No; I should have seized her presently if I had found any blood before she went away first.

Counsel.—Did she own that clean linen to be hers, too?

Kerrel.—Yes.

John Gehagan.—I have chambers over the Alienation Office, three pair of stairs high. Mine are on the left hand, and Mr. Kerrel's on the right; we are very intimate together. On Sunday morning, the 4th of February, I rose about eight o'clock, and saw Mr. Kerrel's door shut. About nine the prisoner came up and opened his door, and went in, and it was not ten minutes before he came to my bed-side, and said, as you was a great advocate for me

last night, I will give you a breakfast. He gave her a shilling to fetch some tea; she made it, and staid till the horn blew for commons. And after commons, he and I went out together. Going through Tanfield-court we found a mob there, and seeing Mr. Clarke, a writer, we asked what was the matter; he told us of the murder, and I said to Mr. Kerrel, this is your laundress's acquaintance. We went to a coffee-house in Covent-garden, where some gentlemen, talking about the murder, said, they should suspect some of the laundresses. We staid there till eight, and then went to the Horse-shoe and Magpie in Essex-street, where we staid till one in the morning, and then going home we found his door open, a fire and candle in the room, and the prisoner standing by the fire. Said Mr. Kerrel, Sarah, this Mrs. Duncomb was one of your acquaintance; have you heard of anybody's being taken up for the murder? She said that one Mr. Knight, who had chambers under Mrs. Duncomb's, was suspected. Well, said Mr. Kerrel, I'll have nobody stay in my room that was acquainted with Mrs. Duncomb. I went down to call the watch, but there being a double door to the Alienation Office, I fumbled and could not get it open, so he came down and brought the watch up. He missed his waistcoats, and asked where they were; she desired him to let her speak a word with him in private: he said no, I have no business with you that needs to be made a secret of. Then she told him they were pawned. He kicked a bundle that lay in the closet, and asked her what it was? she said it was an old gown of hers, with a shift and apron in it; but it was a very indecent sight for a man to see; and therefore desired him not to look into it, and so he put it aside again. Then the watch took her down, and when she was gone, he looked under his bed and found another bundle. Zounds, said he, here's another bundle of linen that this wretch has left behind her; and looking farther, he found the linen and the bloody tankard in the close-stool. We went down together, and he called the watch, and asked him where the woman was? the watchman said he had let her go. You dog, said Mr. Kerrel, go and find her again, or I'll send you to Newgate. The watchman soon met with her, and brought her to us. "You infamous wretch," said I, "was it not enough to rob the people, but you must murder them too? I'll see you hanged, you infernal strumpet." So I showed her the tankard, and she began to wipe the handle with her apron; but, said I, no, you sha'n't wipe it off; she said it was her own, and that her mother gave it her, and that she had fetched it out of pawn, where it had lain for thirty shillings. "You wretch," said I, "your mother was never worth such a tankard." I had much ado to keep my hands off her.

Court.—How came you to know that the prisoner was acquainted with Mrs. Duncomb?

Gehagan.—She told me so herself.

Court.—Did you see the linen that was taken out of the close-stool?

Gehagan.—Mr. Kerrel gave me that linen and the tankard, and I carried them down. I saw this bloody apron and bloody shift taken out of the gown. The bundle was in the closet when Mr. Kerrel missed his waistcoat, but it was not opened then: the watchman fetched it away afterwards.

Prisoner.—Was the blood on the tankard dry?

Gehagan.—It appeared then to be fresh.

Prisoner.—Was the blood on the shift or apron wet or dry?

Gehagan—I don't know certainly.

Prisoner.—Who took the shift up?

Gehagan.—I had it in my hand; the blood on it was like that on the tankard, which I thought was wet.

Prisoner.—It has been folded up ever since then, and if it was wet then it must be damp still, if no air has come to it. Was the linen in the close-stool bloody, and what linen was it?

Gehagan.—I don't know what linen it was, nor whether it was bloody or no.

Prisoner.—Was the linen in the gown delivered to me before I went to the watch-house?

Gehagan.—No; on your saying it was indecent, it was left; but the watchman came afterwards, and said the constable thought it necessary to have the shift and apron.

Prisoner.—What gown had I on?

Gehagan.—I don't know.

Prisoner.—I would ask Mr. Kerrel the same question.

Kerrel.—You came up in that blue riding-hood you have on now, but I did not mind what gown.

Prisoner.—Had I any blood on my clothes, or was I clean dressed?

Court.—Why, it was Monday morning when you was taken; you had twenty-four hours to shift your clothes.

Prisoner.—Had I shifted myself with clean linen?

Kerrel.—I don't know; I did not observe.

Richard Hughs.—As I was upon my watch in the Temple, at past one o'clock in the morning, I heard Mr. Kerrel call watch! my brother watchman went, and then he called me; we went up-stairs, and the prisoner opened the door to us. Mr. Kerrel looked in his drawers, and in the middle drawer there was a pair of ear-rings, which she owned and took them out, and put them in her bosom. In another room there were some clothes, and he asked her about his waistcoats; she went to whisper him, and said they were pawned; he was angry, and said, why did not you ask me for money? he bade me and my comrade take care of her; but as we were not charged with her before a constable, we thought we had no occasion to keep her in custody, and so we discharged her. She went as far as Tanfield-court arch, and then she turned back and said it was late, and she lived as far as Shoreditch; and therefore had rather sit up in the watch-house all night than go home. No, said I, you shall not sit up in the watch-house; and, therefore, go about your business, and be here again at ten o'clock. She said she would come again at ten, and so went away. But soon after she was gone, Mr. Kerrel came down with a tankard and some clean linen, and very angry he was that we had let her go. I went after her and found her at the Temple-gate, sitting between two watchmen; I told her Mr. Kerrel wanted to speak with her; and (that I might get her along the more easily) I said that he was not so angry then as he was before, and so I brought her with me. He showed her the tankard, and she said it was her mother's; he asked her how it came bloody; she said she had pricked her finger.

Counsel.—Was it fresh blood upon the tankard?

Hughs.—It looked much as it does now; then I carried her to the constable, and went away; but, presently I recollected that when I was in Mr. Kerrel's room, I kicked a bundle in a gown, and asked what it was; and she said her shift and apron were in it, and not fit to be seen. I told the constable of it, and he sent for it; so I went and asked for the bundle, whereof the shift and apron were put.

Counsel.—Whereof? wherein, you mean; look upon them, is that the apron, and that the shift?

Hughs.—I am not sure that these are the same, for I unfolded them in the chamber; they were both bloody as they are now

Prisoner.—Was the blood wet or dry?

Hughs.—I am not sure which.

Prisoner.—'Tis hard, if he opened and handled them, and saw they were bloody, and yet can't say whether they were wet or dry.

Ann Love.—I have been acquainted with Mrs. Duncomb thirty years. On Sunday, the 4th of February, I went in order to dine with her; it was exactly one o'clock when I came to the chamber door. I knocked, and waited a considerable time; but nobody answered: I went down to see if I could find anybody that had seen any belonging to the family, or knew whether

the maid was gone out or no. I met Mrs. Oliphant, and asked her; she said she had seen none of them. I went up again, but could make nobody hear. Then I concluded that the old maid, Elizabeth Harrison, was dead, and that the young maid, Ann Price, was gone to her sister's to acquaint her with it. I went then to Mrs. Rhymer (who was Mrs. Duncomb's executrix); she came with me, and I went up again with her, but we could not yet get the door open; I looked out and saw the prisoner at my Lord Bishop of Bangor's door; I called her up, and said, "Sarah, prithee go and fetch the smith to open the door." She said she would go with all speed; and so she went.

Counsel.—Why did you call her?

Love.—Because I knew she was acquainted with Mrs. Duncomb. The prisoner returned without the smith. Mrs. Oliphant came to us. O! said I, Mrs. Oliphant, I believe they are all dead, and the smith is not come, what shall we do? She said she could get out of her master's chamber into the gutter, and so open Mrs. Duncomb's window; I desired her to do so by all means. She accordingly got out upon the leads, broke a pane of glass in Mrs. Duncomb's chamber-window, opened the casement, and I, and Mrs. Rhymer, and the prisoner went in. In the passage, the poor young girl, Nanny, lay murdered upon her bed, and wallowing in her blood, with her throat cut from ear to ear.

In the next room, the old maid, Elizabeth Harrison lay dead, and was thought to be strangled; and in the next room to that, Mrs. Lydia Duncomb lay dead and strangled in her bed; and her box, where she kept her money, was broke open, and nothing left in it but some papers.

Counsel.—Do you know that tankard?

Love.—No; if it was her's, I suppose she kept it locked up, for I don't remember that I have seen it in use.

Counsel.—Have you seen the prisoner in Mrs. Duncomb's chambers at any time before these murders?

Love.—Yes; I was there about eight o'clock the night before the fact, and Mrs. Oliphant and the prisoner were then in the room.

Counsel.—Do you know on what account the prisoner came?

Love.—She pretended she came to inquire about the old maid's health.

Counsel.—What time did she go away?

Love.—She and Mrs. Oliphant went away a little before eight, and I staid about a quarter of an hour after.

Counsel.—When you went, did anybody lock the door after you?

Love.—I don't know; it was a spring-lock, and there was a bolt within-side, and I believe it was bolted when Mrs. Oliphant got in at the window; for when she opened the door, I thought I heard the bolt pass back.

Counsel.—Did the prisoner ever lie with Mrs. Duncomb?

Love.—She was her char-woman before last Christmas.

Counsel.—Did the prisoner use to lie there?

Love.—I am not sure of that.

Counsel.—Have you seen her there at any other time than what you have mentioned?

Love.—Yes; about a month before the murders she came there under the pretence of looking for the key of her master's chambers.

Prisoner.—If you saw me there when the murder was discovered, do you know what clothes I had on?

Love.—I did not take notice of your clothes, but I desired you to make a fire, and so you did.

Counsel.—Did you see any thing lie upon the table?

Love.—There was a case knife, with a white handle, but the blade was broke off short. I did not see the blade.

Counsel.—What became of that broken knife?

Love.—It was taken away, but I can't tell who took it.

Ann Oliphant.—Mrs. Love came to me, and said, she had been knocking

at Mrs. Duncomb's door, and could not get in, and she believed Mrs. Betty (the old maid) was dead, and that Nanny was gone to acquaint her sister with it, and that the old lady could not get up. This was about one o'clock, and at two she told me she had sent Sarah (the prisoner) for a smith to break open the door, but he was not come, and she knew not how to get in. Says I, my master Grisly's chambers, you know, are opposite to Mrs. Duncomb's. He went away last Tuesday, Mr. Twysden has left the keys with me to let the chambers. Now I'll see if I can get out of his chamber-window into the gutter, and so into Mrs. Duncomb's apartment. She desired me to try, and so I did; I got into the gutter; I broke a pane in Mrs. Duncomb's window, and opened the casement. Here is her window, and here is her door; the door was locked and bolted; I opened it, and Mrs. Rhymer and Mrs. Love came in; I did not see the prisoner, but I believe she came soon after. In the first room we found the girl, Ann Price, with her throat cut from ear to ear, her hair loose, and hanging over her eyes, and her hands clenched thus. In the dining room, we found Elizabeth Harrison lying in a press-bed: she was strangled, and her throat scratched; Mrs. Duncomb lay across her bed in the next room. The prisoner was there then, and talked to me, but I was so concerned, that I don't know what she said, and in a few minutes the mob came in.

Counsel.—Was you at Mrs. Duncomb's the night before the murder?

Oliphant.—Yes, I went to see her about eight o'clock; she said she was sorry my master was gone, because it was so lonesome. The prisoner was then sitting by the fire with Mrs. Betty; and Mrs. Betty said, my mistress talks of dying, and would have me die with her. I got up to go away, and the prisoner said she would go down with me; and so she did, and we parted in Tanfield-court.

Counsel.—You say you found the door locked and bolted; how do you think the persons, who did the murder, could get in and out?

Oliphant.—I don't know. I heard somebody say they must get down the chimney; 'tis a large kitchen chimney; but I could thrust the lock back, it is a spring-lock; I have often put to the bolt myself, to save Mrs. Betty the trouble of coming to shut the door after me. When I say, I shut the bolt, I mean the bolt of the lock.

Counsel.—Is there any way to get out and leave the door bolted?

Oliphant.—I know of none.

Counsel.—Can't they get out at the stair-case window?

Oliphant.—No; they have lately been barred.

Counsel.—Mr. Grisly's chambers, you say, had been empty ever since Tuesday; could they not get into his chambers, and so into hers?

Oliphant.—I do not know; there is a silly lock to his door, which I believe may be easily picked.

Frances Rhymer.—I have known Mrs. Duncomb thirty years; and within these three or four years she has been very infirm, and her memory much decayed, and therefore she desired me to receive and take care of her money, and she made me her executrix.

Counsel.—Then you have seen the box where her money was kept?

Rhymer.—Yes; I have opened it twenty times.

Counsel.—Do you know this tankard?

Rhymer.—Yes, very well, it was hers; she used to put her money in it, and the tankard and money were both kept locked up in her box. I kept the key of this box; and the Thursday before her death she asked me if I had got her key? I said yes, and she said she wanted a little money. I opened her box and took out a bag; it was a £100 bag. It lay at the top of the other money in the tankard.

Counsel.—Was this the bag?

Rhymer.—It was such a bag as this. I carried it to her by the fire-side, and gave her a guinea out of it; and there might be left in the bag, I believe,

about twenty guineas. But besides what was in the bag, there were several parcels, that she had sealed up in papers, for particular uses. There were six little parcels sealed up with black wax, I believe there were two or three guineas in each. In another parcel she told me there were twenty guineas, to be laid out in her burying; and in another there were eighteen ludores.

Counsel.—Moidores, I suppose you mean?

Rhymer.—Yes, I believe they call them moidores; these, she said, were for me to defray any extraordinary charges that might happen. Then there was a green purse, with thirty or forty shillings in it for poor people.

Counsel.—Look on that green purse; do you think it is the same?

Rhymer.—I think it was not so long a purse as this.

Prisoner.—Will she take her oath to every farthing of money that was in that box?

Rhymer.—No, I don't pretend to that.

Counsel.—This you say was on Thursday; what did you observe in Mrs. Duncomb's chambers the Sunday following?

Rhymer.—When Mrs. Oliphant let us in, the first thing I took notice of, was the poor young creature in the passage, with her throat cut from ear to ear; then in the dining-room there lay Mrs. Betty, strangled, and in the other room I found Mrs. Duncomb in the same condition, and her strong black box was broken open, and all the money and the tankard were gone.

Prisoner.—You was there when I was called up, what clothes had I on?

Rhymer.—I was too much concerned to take notice of your clothes.

Prisoner.—Was the door locked, or bolted, before Mrs. Oliphant opened it?

Rhymer.—I don't know.

Prisoner.—Did you see any way that a person could possibly get out and leave the door bolted?

Counsel.—Somebody did get in and out too, that's plain to a demonstration.

Frances Crowder.—I knew Mrs. Duncomb six or seven years. I know this tankard; about five years ago she desired me to sell some plate for her; and then she showed me this tankard; "but," says she, "I would not sell this, I intend to keep it for a particular reason, only I would have you ask what it is worth." Her plate was marked with a D and a C [C D L, for her husband's name was Charles], she made use of the tankard to put her money in. And afterwards she told me, that she intended the tankard for her niece Keely.

Counsel.—Look on that clean linen. These are the shifts that were found in Mr. Kerrel's drawers.

Crowder.—Mrs. Duncomb's shifts had a particular cut, and I verily believe on my oath, that these were hers. I have one of hers here; that is the very same in every respect. They are all darned too in a particular manner; there is not one piece in all her linen, but all is darned. They have no mark, but have all the same cut and darning.

Prisoner.—One shift may be cut like another.

Crowder.—Mrs. Duncomb has cut shifts for me exactly in the same manner. These shifts have not been washed, I believe, for many years, but they were laid all in the box with the money and tankard.

Prisoner.—Mrs. Rhymer took no notice of this linen; it was strange that she could not see it; she that opened the box so often, and must know every trifle that was in it.

Court.—She was not asked that question.

Rhymer.—I have seen linen at the bottom of the box; but I did not open it, to look at it; neither can I swear to it.

Thomas Bigg, surgeon.—Mr. Farlow came to me at the Rainbow coffee-house at Temple-bar, to ask me to go with the coroner, and view the bodies. In the first room I found the young maid, Ann Price, lying in bed with her hair loose, and only her shift on. Her chin was fixed down, as if done with a design to hide the cuts in her throat. I lifted her chin up, and found three

incisions; one of them was not mortal, but the middle one divided the wind-pipe, which was cut three parts through, and either this, or the third, was sufficient for her death. Wounds in the windpipe, indeed, are not always mortal, for they may sometimes be cured; but, in a case like this, where the great blood-vessels were cut, the unavoidable consequence must be death. She had no head-clothes on, and her hair was loose, and she seemed to have struggled hard for her life. In leaning over the bed, the mob pressed so hard upon me, that I was in danger of having my legs broken, so that I was not so particular in my observations as I could have been. The next body I viewed, was that of Elizabeth Harrison: she was strangled, and it appeared to have been done by some narrow string, as an apron-string, or a packthread. It was pulled so tight that the skin was divided, and the mark very deep. There was likewise the mark of knuckles on the wind-pipe, and the blood had gushed out at her nose. She had a gown and petticoat on, and a pair of stockings. I knew her when I was an apprentice. She had sore legs, and for that reason might lie in her stockings. Her gown seemed to be a sort of bed-gown, and I believe, being old and infirm, she lay both in that and her petticoat too. The last body was that of Mrs. Duncomb. There was a little crease about her neck, which was just enough to give a suspicion that it was made by a string being tied round, but the mark was so small, that had she not been very ancient and weak, so that a little matter, indeed, would have put an end to her life, one would hardly have thought that to have been the cause of her death.

Counsel.—Did you see the strings on her apron?

Bigg.—Yes, they were bloody at the ends.

Prisoner.—Might they not have been murdered with those strings, and no blood appear in the middle?

Bigg.—They might have been strangled without making the strings bloody at all. But the strings being bloody at the ends, which when the apron was tied on would hang before, the blood might come upon them in the same manner as upon the rest of the apron, or it might be by folding the apron before it was dry.

Prisoner.—If I had this apron, and did the murder in it, how is it possible that my shift should be bloody both behind and before?

Counsel.—My lord, we shall now show, that it was practicable for the door to be bolted withinside by a person who was without.

William Farlow.—Betwixt the door and the post there is a vacancy, through which a man may put his finger. I put a packthread over the bolt withinside, and then went without and shut the spring-lock, and then drew the bolt by the packthread, and it shut very easily.

Mr. Peters.—There being a difficulty started how the door could be left bolted withinside, I took Mr. Farlow, porter of the Temple, with me; he put a string about the neck of the bolt, and then I shut him out, and he pulled the bolt to by both ends of the string, and then letting go one end he pulled the string out.

Roger Johnson.—The prisoner was brought to Newgate on Monday, Feb. 5. I had some knowledge of her, because she used to come thither to see one Johnson, an Irishman, who was convicted for stealing a Scotchman's pack. She saw a room where the debtors were, and asked if she might not be in that room. I told her it would cost her a guinea, and she did not look like one that could pay so much; she said, if it was two or three guineas, she could send for a friend that could raise the money. Then she went into the tap-house among the felons, and talked very freely with them. I called for a link, and took her up into another room, where there were none but she and I. Child, said I, there is reason to suspect that you are guilty of this murder, and therefore I have orders to search you (though indeed I had no such orders); and with that I began to feel about her hips and under her petticoats. She desired to forbear searching under her because she was not in a condition, and

with that she showed me her shift, upon which I desisted. Then I examined down her bosom, and feeling under her arms she started, and threw back her head. I clapt my hand to her head, and felt something hard in her hair, and pulling off her cap, I found this bag of money. I asked her how she came by it, and she said it was some of Mrs. Duncomb's money; "but, Mr. Johnson," said she, "I'll make you a present of it if you will but keep it to yourself, and let nobody know any thing of the matter; for the other things against me are nothing but circumstances, and I shall come off well enough, and therefore I only desire you to let me have threepence or sixpence a day till the sessions is over, and then I shall be at liberty to shift for myself." I told the money over, and, to the best of my knowledge, there were 20 moidores, 18 guineas, 5 broad pieces, I think one was a 25s. piece, and the others 23s. pieces, a half broad piece, 5 crowns, and 2 or 3 shillings: I sealed them up in the bag, and here they are.

Court.—How did she say she came by the money?

Johnson.—She said, she took this money and this bag from Mrs. Duncomb, and begged me to keep it secret. My dear, said I, I would not secrete the money for the world. She told me too, that she had hired three men to swear the tankard was her grandmother's, but could not depend upon them; that the name of the one was William Denny, another was Smith, and I have forgot the third. After I had taken the money away, she put a piece of mattrass in her hair, that it might appear of the same bulk as before. Then I locked her up, and sent to Mr. Alstone, and told him the story; and, said I, do you stand in a dark place to be witness of what she says, and I'll go and examine her again.

Prisoner.—I tied my handkerchief over my head to hide the money, but Buck happening to see my hair fall down, he told Johnson; upon which Johnson came to me, and said, I find the coles planted in your hair, let me keep it for you, and let Buck know nothing of it. So I gave Johnson five broad pieces, and twenty-two guineas, not gratis, but only to keep for me, for I expected it to be returned when the sessions was over. As to the money, I never said I took it from Mrs. Duncomb, but he asking what they had to swear against me, I told him only a tankard; he asked me if that was Mrs. Duncomb's, and I said yes.

Court.—Johnson, were those her words? "this is the money and bag that I took."

Johnson.—Yes; and she desired me to make away with the bag.

Mr. Alstone.—On the day she was committed, Mr. Johnson sent for me, and said he had found a bag of money in her hair, and would have had me take it, but I refused. I asked him where the bag was, he said he had left it with her. I told him he should have taken that too, because there might be some marks upon it. He said he would call her, and get it from her, and desired me to stand out of sight, and hear what she said. I accordingly stood in a dark place, and she came up and delivered a bag to him, and desired him to burn it, or destroy it in some way or other. She said she only wanted witnesses to swear to the tankard, and for all the rest she could do well enough. She afterwards told me part of the money that was found on her was Mrs. Duncomb's, and taken out of her chamber; that two men and a woman were concerned with her, and that she herself was the contriver, and laid the scheme of the robbery, that she let them in, and sat upon the stairs to watch while they committed the fact, but that she knew nothing of the murder; that one Will Gibbs had been with her from the two Alexanders (the men who she said were concerned with her), and that she had sent them ten guineas.

Counsel.—My lord, we have here information upon oath before sir Richard Brocas.

Court.—If it is upon oath it cannot be read, for persons are not to swear against themselves; all examinations ought to be taken freely and voluntarily,

and not upon oath, and then we can read them. Indeed, if afterwards the examinant will accuse others, his examination may be taken separately upon oath, but then it is not to be brought in evidence against him.

Prisoner.—Johnson swears he found twenty moidores on me, and Mrs. Rhymer swore there were but eighteen lost.

Court.—She was not positive, but said there might be about so many.

The prisoner, in her defence, spoke as follows:—Modesty might compel a woman to conceal her own secrets, if necessity did not oblige her to the contrary: and 'tis necessity which obliges me to say, that what has been taken for the blood of the murdered person, is nothing but the free gift of nature.

This was all that appeared on my shift, and it was the same on my apron, for I wore the apron under me next to my shift. My master, going out of town, desired me to lie in his chamber, and that was the occasion of my foul linen being found there. The woman that washed the sheets I then lay in, can testify that the same was upon them; and Mr. Johnson, who searched me in Newgate, has sworn that he found my linen in the like condition. That this was the case is plain; for how was it possible it could be the blood of the murdered person? if it be supposed I killed her with my clothes on, my apron indeed might be bloody, but how should the blood come upon my shift? if I did it in my shift, how should my apron be bloody, or the back part of my shift? and whether I did it dressed or undressed, why was not the neck and sleeves of my shift bloody, as well as the lower parts?

I freely own that my crimes deserve death; I own that I was accessary to the robbery, but I was innocent of the murder, and will give an account of the whole affair.

I lived with Mrs. Lydia Duncomb about three months before she was murdered; the robbery was contrived by Mary Tracy, who is now in confinement, and myself, my own vicious inclinations agreeing with hers. We likewise proposed to rob Mr. Oaks, in Thames-street; she came to me at my master's, Mr. Kerrel's chambers, on the Sunday before the murder was committed; he not being then at home, we talked about robbing Mrs. Duncomb; I told her I could not pretend to do it by myself, for I should be found out. No, said she, there are the two Alexanders (Thomas and James) will help us. Next day I had seventeen pounds sent me out of the country, which I left in Mr. Kerrel's drawers. I met them all in Cheapside the Friday following, and we agreed on the next night, and so parted.

Next day, being Saturday, I went between seven and eight in the evening, to see Mrs. Duncomb's maid, Elizabeth Harrison; she was very bad. I staid a little while with her, and went down, and Mary Tracy and the two Alexanders came to me about ten o'clock, according to appointment. She would have gone about the robbery just then, but I said it was too soon. Between ten and eleven, she said, we can do it now. I told her I would go and see; and so I went up-stairs, and they followed me. I met the young maid on the stairs with a blue mug; she was going for some milk to make a sack posset. She asked me who those were that came after me? I told her, they were people going to Mr. Knight's below. As soon as she was gone, I said to Mary Tracy, Now do you and Tom Alexander go down, I know the door is left ajar, because the old maid is ill, and can't get up to let the young maid in when she comes back. Upon that, James Alexander, by my order, went in and hid himself under the bed; and, as I was going down myself, I met the young maid coming up again. She asked me if I had spoke to Mrs. Betty? I told her no; though I should have told her otherwise, but only that I was afraid she might say something to Mrs. Betty about me, and Mrs. Betty might tell her I had not been there, and so they might have a suspicion of me. I passed her and went down, and spoke with Tracy and Alexander, and then went to my master's chambers, and stirred up the fire. I staid about a quarter of an hour, and when I came back,

I saw Tracy and Tom Alexander sitting on Mrs. Duncomb's stairs, and I sat down with them. At twelve o'clock we heard some people walking, and by and by Mr. Knight came, went to his room, and shut the door. It was a very stormy night; there was hardly anybody stirring abroad, and the watchman kept up close, except just when they cried the hour. At two o'clock another gentleman came and called the watch to light his candle, upon which I went further up-stairs, and soon after this, I heard Mrs. Duncomb's door open; James Alexander came out, and said, now is the time. Then Mary Tracy and Thomas Alexander went in, but I staid upon the stairs to watch. I had told them where Mrs. Duncomb's box stood. They came out between four and five, and one of them called to me softly, and said, hip! how shall I shut the door? Says I, 'tis a spring-lock; pull it too, and it will be fast; and so one of them did. They would have shared the money and goods upon the stairs, but I told them we had better go down; so we went under the arch by Fig-tree court, where there was a lamp; I asked them how much they had got? they said they had found fifty guineas, and some silver in the maid's purse; about £100 in the chest of drawers, besides the silver tankard, and the money in the box, and several other things; so that, in all, they had got the value of about £300 in money and goods. They told me they had been forced to gag the people; they gave me the tankard, with what was in it, and some linen, for my share, and they had a silver spoon and a ring, and the rest of the money among themselves. They advised me to be cunning, and *plant* the money and goods under ground, and not be seen to be *flush;* then we appointed to meet at Greenwich, but we did not go.

I was taken in the manner the witnesses have sworn, and carried to the watch-house, from whence I was sent to the Compter, and so to Newgate. I own that I said the tankard was mine, and that it was left me by my mother: several witnesses have sworn what account I gave of the tankard being bloody; I had hurt my finger, and that was the occasion of it. I am sure of death, and therefore have no occasion to speak any thing but the truth. When I was in the Compter, I happened to see a young man, whom I knew, with a fetter on; I told him I was sorry to see him there, and I gave him a shilling, and called for half a quartern of rum, to make him drink. I afterwards went into my room, and heard a voice call me, and perceived something poking behind the curtain; I was a little surprised, and looking to see what it was, I found a hole in the wall, through which the young man I had given the shilling spoke to me, and asked me if I had sent for my friends; I told him no. He said, he'd do what he could for me, and so went away; and some time after he called to me again, and said, here's a friend. I looked through, and saw William Gibbs come in. Said he, who is there to swear against you? I told him my two masters would be the chief witnesses. And what can they charge you with? said he. I told him the tankard was the only thing, for there was nothing else that I thought could hurt me. Never fear then, said he, we'll do well enough; we will get them that will rap the tankard was your grandmother's, and that you was in Shoreditch the night the fact was committed; and we'll have two men that shall shoot your two masters. But, said he, one of the witnesses is a woman, and she won't swear under four guineas; but the men will swear for two guineas each, and he brought a woman and three men. I gave them ten guineas, and they promised to wait for me at the Bull-head in Bread-street; but when I called for them, when I was going before sir Richard Brocas, they were not there. Then I found I should be sent to Newgate, and I was full of anxious thoughts; but a young man told me, I had better go to Newgate than to the Compter.

When I came to Newgate, I had one shilling and six-pence, in silver, besides the money in my hair, and I give eighteen-pence for my garnish; I was ordered to a high place in the jail. Buck, as I said before, having seen my hair loose, told Johnson of it, and Johnson asked me, if I had got any cole planted there? He searched and found the bag, and there was in it, thirty-six moidores,

eighteen guineas, five crown-pieces, two half-crowns, two broad pieces of twenty-five shillings, four of twenty-three shillings, and one half broad piece. He told me I must be cunning, and not be seen to be flush of money. I desired him to keep it for me, till I got clear, and only let me have a little now and then as I wanted it; then, said he, do you know anybody that will swear for you? No, said I, can you help me to any? I would not do such a thing for the world, said he, if I thought you guilty: so he took the money, and we parted; but in a little time he came down again, and said, what have you done with the bag? I have it, said I, but what would you advise me to do with it? Why, said he, you might have thrown it down the necessary-house, or have burned it, but give it me, and I'll take care of it; and so I gave it him. Mr. Alstone then brought me to the condemned hole, and examined me; I denied all, till I found he heard of the money, and then I knew my life was gone; and therefore I confessed all that I knew. I gave him the same account of the robbers as I have given now. I told him I heard my masters were to be shot, and I desired him to send them word. I described Tracy and the two Alexanders, and when they were first taken, they denied that they knew Mr. Oaks, whom they and I had agreed to rob.

All that I have now declared is fact, and I have no occasion to murder three persons on a false accusation: for I know I am a condemned woman; I know I must suffer an ignominious death, which my crimes deserve, and I shall suffer willingly. I thank God that he has given me time to repent, when I might have been snatched off in the midst of my crimes, and without having an opportunity of preparing myself for another world.

My lord, as there was more money found upon me than belonged to Mrs Duncomb, I hope your lordship will be so good as to order what was my own to be returned to me.

Court.—The court cannot determine whose property the money is, till the jury have brought in their verdict.

The jury then withdrew, and, in about a quarter of an hour, brought in their verdict, *Guilty—Death.*

The ordinary, in his account of this malefactor, informs us, that she was twenty-two years of age, descended of honest, creditable parents, in the county of Durham.

Her father, she said, had a pretty estate, about £100 a year, which he soon ran out, and then with the reversion of it, he and her mother, who was an Irish woman, went to Dublin, and there they purchased a public place of the city, lived in good credit, and gave her a good education at school, in reading, writing, and such other things as are proper for a girl above the meanest rank of the people. She lived with her father and mother, who made much of her, because of her sprightly temper, a considerable time; till some years after, her parents coming to London, about certain affairs, she came with them; and some time after that, approaching to woman's estate, she went to service, and was in several good families, where she gave satisfaction, and was never blamed for her dishonesty. Her father returning to Dublin, her mother died soon after; about which time she got to be one of the laundresses in the Temple. Before this, she was a servant at the Black-Horse ale-house, where she renewed her former acquaintance with Mary Tracy, and became acquainted with the two Alexanders.

As to the murders, burglary, and robbery, for which she was indicted and found guilty, she gave much the same account as she did in court, in her defence; we shall not therefore tire the reader's patience with a repetition.

As to her behaviour, after her commitment, she no sooner entered Newgate, but she cried out, *I am a dead woman.* She was conveyed to the Old Condemned Hole, as the most proper place for securing her, and a person was appointed to watch her, from an apprehension that she intended to take away her own life. These fears were occasioned from her appearing to be ex tremely ill and out of order; her sick fits were succeeded by vomitings of

clotted blood, and her persisting during these ails to refuse taking any thing to comfort her, or support nature. Mr. Snowd, a surgeon, after examining into her case, declared it as his opinion, that her illness might be occasioned by a preternatural hurry of spirits, and was not dangerous. However, she would sometimes fall into strange agonies, rolling her eyes, clenching her hands, &c. particularly once, when her former master came to see her, she fell into an extraordinary disorder, grasping the keeper's legs, so as scarcely to be got off; when she came to herself, all the reason she assigned was, that she could not endure to see any of her acquaintance.

When she was informed that Mary Tracy and the two Alexanders were seized, she appeared pleased, and smiled, saying, with seeming satisfaction, I shall die now with pleasure, since the murderers are taken. When the boys and the women were shown to her, that she might see whether they were the persons whom she accused, she immediately said, Ay, these are the persons who committed the murder. And said to Tracy, you know this to be true, which she pronounced with a boldness that surprised all who were present. Then addressing her again, said, see, Mary, what you have brought me to; and it is through you and the two Alexanders, that I am brought to this shame, and must die for it; you all promised me you would do no murder, but to my great surprise I found the contrary.

Some gentlemen who came to see her in the press-yard, importuning her to make a frank discovery of the murder, she answered with some heat, After I have been some time laid in my grave, it will be found out. Some people of fashion asking her if she was settled in her mind, and resolved to make no further confession; she said, that as she was not concerned in the murder, she hoped God would accept her life as a satisfaction for her manifold sins.

On Sunday, about six o'clock in the afternoon, as some people were in her room, she fell into a grievous agony, which lasted for some time with all imaginable signs of terror and fright. One of the keepers coming in said, Sarah, what's the matter? what has happened to put you in this disorder? when she pretended it was occasioned by her being told at chapel that she was to be hanged in Fleet-street among all her acquaintance, which, she said, gave her inexpressible pain. The keeper replied, I am afraid, Sarah, that is not the truth; when the death-warrant came down, I acquainted you that you were to die there, so it is not probable that should surprise you so much now. Take my advice, and make a full confession, and you'll find your mind much easier. To this she said not a word.

When the bellman came into Newgate to give notice to the prisoners who were to die on Monday, somebody called to Sarah Malcolm, and bid her mind what he said; she, looking out of the window, answered, she did; and as soon as he had done, said, d'ye hear, Mr. Bellman, call for a pint of wine, and I'll throw you a shilling to pay for it; which she did accordingly.

Sunday night, about ten o'clock, she called to Chambers, one of the prisoners who were to die the next day, and who was in a cell over-against her window, and bid him to be of good comfort, and asked him if she should pray along with him? He answered, yes, Sarah, with all my heart. Upon which she began to pray very fervently, and continued to do so for the best part of the night, till all her candles were burnt out: then she exhorted him not to go to sleep, but to pray to God to forgive him for all his past offences; your time, said she, is short as well as mine, and I wish I were to go with you.

JOSEPH BARETTI,

FOR MURDER.

At the sessions held at the Old Bailey in November, 1769, Mr. Baretti was brought to his trial, for the murder of Evan Morgan, on the 6th of October preceding, when the substance of the evidence against him was to the following effect.

Elizabeth Ward deposed, that between nine and ten at night, on the 6th of October, she heard a woman, whom she had never seen before, ask the prisoner to give her a glass of wine, and at the same time take hold of him in a manner inconsistent with decency; that the prisoner proceeded forward, but, soon turning back, doubled his fist, and struck this deponent a violent blow on the face; that on her screaming out, three men came up, and demanded how he could strike a woman, and thrusting at him once or twice, pushed him off the pavement. At this time, she said, Baretti drew a knife, while the men followed him, calling out murder! he has a knife out! and this deponent believed that the deceased was stabbed at this juncture.

The deposition of Thomas Patman was to the following effect: that he had been in company with a Mr. Clark, and the deceased, on the night above mentioned; that he saw Mr. Baretti strike a woman, whom he did not know, on the head, and on her screaming out, Morgan and Clark pushed Patman, though not with much violence, against Baretti, who gave him a blow on the left side, in consequence of which the blood ran down into his shoe; and then he called out he was stabbed; that Baretti retreated; that Morgan followed him about half-way up Panton-street, where Morgan received a wound from the prisoner in Patman's presence, in consequence of which he fell to the ground.

The testimony of John Clark confirmed, in several particulars, that of the preceding evidence; but, on his being cross-examined, he acknowledged that Patman did not know he was stabbed till Mr. Baretti ran into Panton-street. He likewise owned, that he had sworn before the coroner, that Morgan collared Baretti before he knew Patman was wounded; and that one of the women said, the prisoner ought to have a blow on the head with her patten.

The evidence of Mr. Lambert, a tallow-chandler in Panton-street, was to the following effect: he said that Mr. Baretti ran into a grocer's shop opposite his house; that Patman was standing at the door, with the blood running down his shirt, and said that a gentleman in the shop had stabbed him. Mr. Baretti had at that time a knife in one hand, and a silver case over the blade, which was bloody. Mr. Lambert, who was then in the office of constable, called to Baretti to surrender; and, immediately running towards him, seized him, and took him into custody, in order to convey him before a magistrate.

Morgan having been carried to the Middlesex hospital, one of the patients, who had been there at the time, declared, that he had heard the deceased say, that he saw a gentleman assault two women; on which, without intending to give offence, he went to assist them; when Baretti stabbed him in two places, and that he then turned round, and stabbed him a third time; and that the third wound hurt him more than the two former.

The testimony of Mr. Wyatt, the surgeon who attended Morgan, imported, that the deceased received three wounds, one of which, being in the belly, was the immediate occasion of his death.

This being the substance of the evidence on the trial, Mr. Baretti read the following defence.

"On Friday, the 6th, I spent the whole day at home, correcting my Italian and English dictionary, which is actually reprinting and working off; and upon another book in four volumes, which is to be published in February

next, and has been advertised in the newspapers. I went, a little after four, to the club of Royal Academicians in Soho, where I stopped about half an hour, waiting for my friends and warming myself in the club-room.

"Upon nobody's coming, I went to the Orange coffee-house, to see if a letter was come for me (for my letters come there), but there was none. I went back to go to the club, and going hastily up the Hay-market, there was a woman at a door; they say there were two, but I took notice of but one, as I hope God will save me; there might have been two, though I only saw one; that is a fact. There was a woman eight or ten yards from the corner of Panton-street, and she clapped her hands with such violence about my private parts that it gave me great pain. This I instantly resented, by giving her a blow on the hand, with a few angry words. The woman got up directly, raised her voice, and finding by my pronunciation I was a foreigner, she called me several bad names, in a most contumelious strain; among which French bougre, d——d Frenchman, and a woman-hater, were the most audible.

"I had not quite turned the corner, before a man made me turn back, by giving me a blow with his fist, and asking me how I dare strike a woman; another pushed him against me, and pushed me off the pavement; then three or four more joined them. I wonder I did not fall from the high step which is there. The path-way is much raised from the coach-way. A great number of people surrounded me presently, many beating me, and all d——g me on every side, in a most frightful manner. I was a Frenchman in their opinion, which made me apprehensive I must expect no favour nor protection, but all outrage and blows.

"There is generally a great puddle in the corner of Panton-street, even when the weather is fine; but that day it had rained incessantly, which made it very slippery. I could plainly perceive my assailants wanted to throw me into the puddle, where I might be trampled on; so I cried out, murder! There was a space in the circle, from whence I ran into Panton-street, and endeavoured to get into the footway. I was in the greatest horror, lest I should run against some stones, as I have such bad eyes. I could not run so fast as my pursuers, so that they were upon me, continually beating and pushing me, some of them attempting to catch me by the hair-tail; if this had happened, I had been certainly a lost man. I cannot absolutely fix the time and place where I first struck. I remember, somewhere in Panton-street, I gave a quick blow to one who beat off my hat with his fist.

"When I was in Oxendon-street, fifteen or sixteen yards from the Hay-market, I stopped and faced about. My confusion was great, and seeing a shop open, I ran into it for protection, quite spent with fatigue. I am certainly sorry for the man; but he owed his death to his own daring impetuosity. Three men came into the shop; one of them cried to me to surrender myself to him, who was a constable. I asked them if they were honest men, and friends; they said yes. I put up my knife, desired them to arrest me; begged they would send for a coach, and take me to sir John Fielding.

"I appeal to them how I behaved when I surrendered, and how thankful I was for their kind protection. Sir John heard what I and the men had to say. They sent me into a room below, from whence I despatched a man to the club in Gerrard-street, where sir Joshua Reynolds and other gentlemen came to me.

"A messenger was despatched to the Middlesex hospital, where they said Morgan was carried. A surgeon came, and took his oath that Morgan was in danger. Sir John committed me to Tothill-fields bridewell. Two gentlemen, as well as the constable, can witness to my behaviour when the coachman lost his way, which forced us to alight in the mire and darkness, in order to find the way to Tothill-fields bridewell. I humbly conceive this will show I had no intention of escaping. That woful night I passed without rest.

'My face had been observed to be hurt, while I was at sir John Fielding's; and the constable was the first who took notice of a blow I had received on the chin. But when the heat and fear had subsided, I found a great pain in divers parts of my body. Mr. Molini and Mr. Low, being with me, desired me to let them see what was the matter with my back, which I complained of. I stripped, and they saw several bruises.

"This, my lord, and gentlemen of the jury, is the best account I can give of my unfortunate accident; for what is done in two or three minutes, in fear and terror, is not to be minutely described; and the court and jury are to judge. I hope your lordship and every person present, will think that a man of my age, character, and way of life, would not spontaneously quit my pen to engage in an outrageous tumult. I hope it will easily be conceived, that a man almost blind could not but be seized with terror on such a sudden attack as this. I hope it will be seen, that my knife was neither a weapon of offence or defence; I wear it to carve fruit and sweetmeats, and not to kill my fellow-creatures.

"It is a general custom in France not to put knives upon the table, so that even ladies wear them in their pockets for general use. I have continued to wear it after my return, because I have found it occasionally convenient. Little did I think such an event would have happened. Let this trial turn out as favourable as my innocence may deserve, still my regret will endure as long as life shall last.

"A man who has lived full fifty years, and spent most of that time in a studious manner, I hope, will not be supposed to have voluntarily engaged in so desperate an affair. I beg leave, my lord and gentlemen, to add one thing more. Equally confident of my own innocence, and English discernment to trace out truth, I did resolve to waive the privileges granted to foreigners by the laws of this kingdom; nor was my motive a compliment to this nation; my motive was my life and honour, that it should not be thought I received undeserved favour from a jury part of my own country. I chose to be tried by a jury of this country; for, if my honour is not saved, I cannot much wish for the preservation of my life. I will wait for the determination of this awful court with that confidence, I hope, which innocence has a right to obtain. So God bless you all."

Several gentlemen now appeared in behalf of Mr. Baretti; among whom, Mr. Lambert proved that he had received a blow; that his hat was lost, and that his face was swelled.

Mr. Molini swore, that on the day after the affray, he had observed a swelling on Mr. Baretti's cheek, and several bruises on his back and shoulder; and Mr. Low deposed, that when he visited Mr. Baretti in prison, he had seen six or seven bruises on different parts of his body.

Justice Kelynge, major Alderton, and Mr. Petrin, deposed, that some abandoned women, attended by bullies, had severally attacked them in an indelicate way in the Haymarket.

To the character of Mr. Baretti appeared sir Joshua Reynolds, Dr. Johnson, Mr. Fitzherbert, and Edmund Burke, esq., all of whom represented him as a man of benevolence, sobriety, modesty, and learning. The honourable Mr. Beauclerk, Mr. Garrick, and Mr. Molini, all confirmed this testimony, adding, that persons who travel in foreign countries are accustomed to carry such knives as that which had been unhappily made use of by the prisoner.

After considering the whole matter, the jury acquitted Mr. Baretti of murder and manslaughter, and gave a verdict of self-defence.

MUNGO CAMPBELL,

FOR MURDER.

Mungo Campbell was a descendant of the noble family of Argyle, and was born at Ayr, in Scotland, in the year 1721. His father, who was a merchant of eminence, had been mayor of the town, and a justice of peace; but having twenty-four children, and meeting with many losses in his commercial connexions, it was impossible for him to make any adequate provision for his family; so that on his death, the relations took care of the children, and educated them in the liberal manner which is customary in Scotland. Mungo was protected by an uncle, who gave him a good education; but this generous friend dying when the youth was about eighteen years of age, left him sixty pounds, and earnestly recommended him to the care of his other relations. The young man was a finished scholar; yet seemed averse to make choice of any of the learned professions. His attachment appeared to be to the military life, in which line many of his ancestors had most gloriously distinguished themselves. He now entered himself as a cadet in the royal regiment of Scotch Grays, then commanded by his relation, general Campbell, and served during two campaigns at his own expense in the hope of gaining military preferment. After the battle of Dettingen, at which he assisted, he had an opportunity of being appointed quarter-master, if he could have raised one hundred pounds; but this place was bestowed on another person, while Campbell was making fruitless applications for the money. Thus disappointed of what he thought a reasonable expectation, he quitted the army, and went into Scotland, where he arrived at the juncture when the rebels had quitted Edinburgh, in 1745. Lord Loudon then had the command of the royal Highlanders, who exerted so much bravery in the suppression of the rebellion. Mr. Campbell, being related to his lordship, fought under him with such bravery as did equal credit to his loyalty and courage.

Not long after the decisive battle of Culloden, lord Loudon procured his kinsman to be appointed an officer of the excise; and prevailed on the commissioners to station him in the shire of Ayr, that he might have the happiness of residing near his friends and relations. In the discharge of this new duty, Mr. Campbell behaved with strict integrity to the crown, yet with so much civility, as to conciliate the affections of all those with whom he had any transactions. He married when he was somewhat advanced in life; and so unexceptionable was his whole conduct, that all the nobility and gentry in the neighbourhood, the earl of Eglington excepted, gave him permission to kill game on their estates. However, he was very moderate in the use of this indulgence, seldom shooting but with a view to gratify a friend with a present, hardly ever for his own emolument. He had a singular attachment to fishing; and a river in lord Eglington's estate affording the finest fish in that country, he would willingly have angled there; but his lordship was as strict with regard to his fish as his game.

Being one day in search of smugglers, and carrying his gun, he was crossing part of lord Eglington's estate, when a hare starting up, he shot her. His lordship hearing the report of the gun, and being informed that Campbell had fired it, sent a servant to command him to come to the house. Campbell obeyed, and was treated very unkindly by his lordship, who even descended to call him by names of contempt. The other apologized for his conduct, which he said arose from the sudden starting of the hare, and declared that he had no design of giving offence. A man named Bartleymore was among the servants of lord Eglington, and was a favourite of his lordship; this man had dealt largely in contraband goods. Mr. Campbell, passing along the seashore, met Bartleymore with a cart, containing eighty gallons of rum, which

he seized as contraband, and the rum was condemned, but the cart restored, as being the property of lord Eglington. Bartleymore was now so incensed against Campbell, that he contrived many tales to his disadvantage, and at length engaged his lordship's passion so far, that he conceived a more unfavourable opinion of him than he had hitherto done; while Campbell, conscious that he had only discharged his duty, paid little or no attention to the reports of his lordship's enmity. About ten in the morning of the 24th of October, 1769, Campbell took his gun, and went out with another officer with a view to detect smugglers. The former took with him a licence for shooting, which had been given him by Dr. Hunter; though they had no particular design of killing game. They now crossed a small part of lord Eglington's estate, to reach the sea-shore, where they intended to walk. When they arrived at this spot, it was near noon; and lord Eglington came up in his coach, attended by Mr. Wilson, a carpenter, who was working for him, and followed by four servants on horseback. On approaching the coast, his lordship met Bartleymore, who told him that there were some poachers at a distance. Mr. Wilson endeavoured to draw off his lordship's notice from such a business, but Bartleymore saying that Campbell was among the poachers, lord Eglington quitted his coach, and mounting a led horse, rode to the spot, where he saw Campbell and the other officer, whose name was Brown. His lordship said, Mr. Campbell, I did not expect to have found you so soon again on my grounds, after your promise, when you shot the hare. He then demanded Campbell's gun, which the latter declared he would not part with. Lord Eglington now rode towards him; while Campbell retreated, with his gun presented, desiring him to keep at a distance. Still, however, his lordship advanced, smiling, and said, are you going to shoot me? Campbell replied, I will, if you do not keep off.

Lord Eglington now called to his servants to bring him a gun, which one of them took from the coach, and delivered it to another, to carry to their master. In the interim, lord Eglington, leading his horse, approached Mr. Campbell, whose gun he demanded; but the latter would not deliver it. The peer then quitted his horse's bridle, and continued advancing, while Campbell still retired, though in an irregular direction, and pointed his gun towards his pursuer. At length, lord Eglington came so near him, that Campbell said, I beg your pardon, my lord, but I will not deliver my gun to any man living; therefore keep off, or I will certainly shoot you. At this instant, Bartleymore advancing, begged Campbell to deliver his gun to lord Eglington; but the latter answered, he would not, for he had a right to carry a gun. His lordship did not dispute his general right, but said, that he could not have any to carry it on his estate, without his permission. Campbell again begged pardon, and still continued retreating; but with his gun in his hand, and preparing to fire in his own defence. While he was thus walking backwards, his heel struck against a stone and he fell, when he was about the distance of three yards from his pursuer. Lord Eglington observing him fall on his back, stepped forward as if he would have passed by Campbell's feet, which the latter observing, reared himself on his elbow, and lodged the contents of his piece in the left side of his lordship's body. At this critical juncture, the servant above mentioned brought the gun from the coach, and Campbell would have wrested it from his hands, but that Bartleymore came up just at the very moment; and at this moment, lord Eglington, putting his hand to his wound, said, I am killed.

A contest now ensued, during which Bartleymore repeatedly struck Campbell; which being observed by lord Eglington, he called out, "do not use him ill." Campbell, being secured, was conducted to the wounded man, then lying on the ground, who said, "Mr. Campbell, I would not have shot you;" but Campbell made no answer. Lord Eglington's seat was about three miles from the place where this fatal accident happened; and his servants put him into the carriage to convey him home. In the mean time Campbell's hands

were tied behind and he was conducted to the town of Saltcotes, the place of his former station as an exciseman. The persons who conducted him asked him several questions, the answers to which were afterwards very ungenerously adduced on his trial, as collateral evidence of his guilt. Among other things, he acknowledged that he would rather part with his life than his gun; and that sooner than have it taken from him, he would shoot any peer of the realm.

Lord Eglington died after languishing ten hours. Mr. Campbell was, on the following day, committed to the prison of Ayr, and the next month removed to Edinburgh, in preparation for his trial before the high court of justiciary; previous to which his case was discussed by counsel, and the following arguments were adduced in his favour.

"First, That the gun went off by accident, and therefore it could be no more than casual homicide.

"Secondly, That supposing it had been fired with an intention to kill, yet the act was altogether justifiable, because of the violent provocation he had received; and he was doing no more than defending his life and property.

"Thirdly, It could not be murder, because it could not be supposed that Mr. Campbell had any malice against his lordship, and the action itself was too sudden to admit of deliberation."

The counsel for the prosecution urged in answer,

"First, That malice was implied in consequence of Campbell's presenting the gun to his lordship, and telling him, that unless he kept off he would shoot him.

"Secondly, That there was no provocation given by the earl besides words, and words must not be construed a provocation in law.

"Thirdly, The earl had a right to seize his gun in virtue of several acts of parliament, which are the established laws of the land, to which every subject is obliged to be obedient."

After repeated debates between the lawyers of Scotland, a day was at length appointed for the trial, which commenced on the 27th of February, 1770, before the high court of justiciary; and the jury having found Mr. Campbell guilty, he was sentenced to death.

The lord justice clerk, before he pronounced the solemn sentence, addressed himself to the convict, advising him to make the most devout preparations for death, as all hopes of pardon would be precluded from the nature of his offence. Through the whole course of the trial, the prisoner's behaviour was remarkable for calmness and serenity; and when it was ended he bowed to the court with the utmost composure, but said not a single word in extenuation of his crime.

On his return to the prison he was visited by several of his friends, among whom he behaved with apparently decent cheerfulness. After they had drunk several bottles of wine they left him, and he retired to his apartment, begging the favour of another visit from them on the following day; but in the morning (Feb. 28, 1770), he was found dead, hanging to the end of a form, which he had set upright, having fastened a silk handkerchief round his neck.

TRIAL OF LUCRETIA CHAPMAN,

OTHERWISE CALLED LUCRETIA ESPOS Y MINA, WHO WAS JOINTLY INDICTED WITH LINO AMALIA ESPOS Y MINA, FOR THE MURDER OF WILLIAM CHAPMAN, ESQ. LATE OF ANDALUSIA, COUNTY OF BUCKS, PENNSYLVANIA;—IN THE COURT OF OYER AND TERMINER, HELD AT DOYLESTOWN, FOR BUCKS COUNTY, FEBRUARY TERM, 1832.

Mr. Ross opened the case for the prosecution, as follows:—

May it please the court,

Gentlemen of the jury—The grand inquest of the county, at the last court of Oyer and Terminer, returned to this court a bill of indictment, charging the prisoner at the bar with the wilful, deliberate, and premeditated murder of William Chapman, by administering poison. To this indictment she has pleaded not guilty, and has put herself upon her God and her country for trial. You, gentlemen, constitute that country, and you have just been solemnly sworn or affirmed to decide upon her guilt or innocence, according to the evidence that may be adduced before you. In fulfilling this duty, so solemn and sacred in its character, you will no doubt be governed solely by a strict regard to the public justice of the country, and the maintenance of those laws which alone can secure us in the enjoyment of our lives, our liberty, and our property. The crime of murder has occurred so frequently in this county within the last few years, that it is calculated to awaken the fears of the community, and to render it imperiously the duty of jurors to carry into execution the laws of the commonwealth, without regard to the consequences that may follow a verdict of conviction. Scarcely, indeed, has more than one year passed by since there was placed at this bar, upon his trial, a *brother* charged with having imbrued his hands in the blood of a *brother*. In the same bar, and before a jury of the same county, there is now about to be placed upon her trial, a *wife*, charged with having been the destroyer and the murderess of her husband.

Incredible as it may appear, that a crime so heinous in its character, and evincing so much profligacy and depravity of heart, should have been perpetrated within the limits of this peaceable and moral community; nevertheless, the evidence which we shall lay before you, will irresistibly lead you to the melancholy truth, that the prisoner at the bar is guilty of the offence with which she stands indicted.

The indictment which you are about to try contains three counts, and charges Mrs. Chapman, jointly with another, with the perpetration of this murder. She is indicted as a principal in all the counts. A principal in the first degree is one who is the actor or absolute perpetrator of the crime. I will not now trouble you with the law relative to principals, as it will be fully detailed to you in the future progress of this case; but will proceed to disclose to you the evidence which will be offered in support of this indictment, and to which I now ask your serious and undivided attention. It appears that some time in the month of May last, about twilight, there appeared at the door of Mr. Chapman's residence a stranger calling himself Mina, and asking permission to stay the night. Representing himself as the son of General Mina, and as being poor and friendless, in a strange land, the permission was not only granted, but he was seated at the family board, and partook in other respects of the hospitality extended to him by the unfortunate husband of the prisoner at the bar. He prolonged his stay at Andalusia, where Mrs. Chapman soon contracted that ill-fated intimacy with him, which alone could have induced her to conspire against the life of her husband, and which is not only about to bring upon her own head the vengeance of the law, but must, in some measure, entail misery and disgrace upon her innocent and helpless

children. The evidence will disclose such a scene of profligacy and immorality as has been seldom witnessed in this, or indeed in any other country. Immediately after this stranger had taken up his residence in the family, Mrs. Chapman virtually divorced herself from her husband. She treated him with the greatest cruelty and indignity, and not only reproached him with the most opprobious epithets, but repeatedly expressed a wish that he was gone. In fact, all that affection and kindness which a wife should entertain for her husband, seemed to have given place to the most deep and bitter hatred. Entertaining this dislike of her husband, it is not surprising that she should have formed an illicit intercourse with this person, who had thus introduced himself into her family. The evidence will leave no doubt upon your minds that such an intimacy had existed between them for some time previous to the death of her husband. So wanton was her conduct, and so openly and shamelessly manifested, that it attracted not only the observation of her neighbours, but of her own children and family. The maid-servant left the house in consequence of the gross impropriety which she saw, and Mr. Chapman, the husband, not only ordered Mina from the house, and complained of the ill conduct of his wife, but wept bitterly over the misery and disgrace, which she was almost daily inflicting upon him. Having laid before you this testimony, we think that we shall have assigned a motive for this horrid transaction, and have satisfied you that Mrs. Chapman was possessed of no moral principle sufficient to restrain her from the commission of the dark and nefarious deed with which she stands charged.

We will endeavour to show that a conspiracy existed between these individuals to poison Mr. Chapman. Mina, on the 16th of June, was in the city of Philadelphia, and we shall be able satisfactorily to prove to you that he at that time purchased of a respectable druggist a quantity of arsenic. He stated that he was making a collection of birds, and that he wished the arsenic for the purpose of using it in their preparation; whereas the evidence will be clear and positive that he, at that time, could not have been engaged in collecting birds. The next day after his return to Andalusia, Chapman was taken sick. This sickness, when first taken, was of so slight a character that the physician who saw him, on the 19th, did not deem it necessary to visit him again. He grew better, and on Monday, the 20th, Mrs. Chapman prepared for him some chicken soup, which she took from the kitchen to the parlour, for the purpose, as she stated, of seasoning it. When the soup was taken to the parlour, she and Mina were the only persons left in the room. We shall endeavour to prove to you by the declarations of Mina, that Mrs. Chapman at that time took the poison and mixed it with the soup. It was taken to Mr. Chapman during the morning, and he took a small quantity of it; the remainder was thrown into the yard. In the evening of the same day, the chicken of which the soup had been made, was taken up to him, and a very small portion was eaten; the remainder of this also was thrown into the yard. The next day, the ducks of a neighbour, which had been in the yard where the chicken was thrown, died in a very sudden, and at the time in a very unaccountable manner. Immediately after taking the soup he grew worse, and complained of a burning heat in the stomach. He said that something appeared like fire in his stomach, and that it was the seat of all his misery and pain. In fact, every symptom of his disease indicated that arsenic had been administered to him. On Monday evening he was visited by a friend, who found him in a great deal of pain, and suffering for the want of attention. He made a particular request, that this person would remain with him that evening and take care of him, as his wife neglected to pay him any attention. This friend stayed with him, as requested, until nearly 11 o'clock, when Mrs. Chapman came into the room and requested him to retire. He however, before he retired from the room, requested her to send for a physician. She declined doing so. He again earnestly besought her to permit him to go for a physician, but she persisted in refusing, although her husband

was then so ill that it was doubtful whether he could survive till morning. No physician was sent for until a very late hour on Tuesday evening, when Dr. Knight was called in. Mrs. Chapman however refused to administer his prescriptions, notwithstanding she was particularly enjoined to do so by the physician himself. He lingered until the morning of the 23d, when he expired; and on the 5th of July following, she married the individual with whom, it is supposed, she conspired against the life of her husband. Three months after his decease, circumstances having occurred which induced a suspicion that he was poisoned, the body was disinterred, and a chemical analysis made of the stomach by two distinguished chemists of Philadelphia. In the opinion of these chemists, as well as in the opinion of the experienced anatomists who examined the body, the death of Mr. Chapman was occasioned by the administration of arsenic, and not by cholera morbus, as had been alleged.

In addition to this testimony, we shall also lay before you a letter of Mrs. Chapman, in which certain expressions are used, which will leave but little doubt upon your mind, that they have reference to the crime of which she now stands indicted. Her conduct, in various respects, furnishes, when taken in connexion with the other circumstances of the case, very strong presumptive evidence of her guilt. Such, for instance, as assigning different reasons to different individuals, when interrogated, as to the cause of her husband's death; treating him with so much cruelty and neglect during his sickness, as induced him to complain to the rest of his family, that he believed his wife wished him gone; and finally flying from the county upon the first intimation that she was suspected. These circumstances will all be proved to you, and will, I have no doubt, be sufficient, independent of the positive testimony, to enable you to render a verdict of guilty.

The case does indeed afford another striking proof of the truth of the line that "blood, though it sleep a time, yet never dies."

TESTIMONY FOR THE PROSECUTION.

Wednesday morning, February 15.

Mary Palethorpe, affirmed :—(Witness is about twelve years of age.) I lived last May, at Mrs. Chapman's. A person came there about dusk. He said his father was governor of California—told this to Mr. and Mrs. Chapman, Mr. Foreman, Mr. Ash, Mr. Cruiser, and the children. He called himself Lino Amalia Espos y Mina. He asked to stay all night. They permitted him to do so. They took him down to eat with us—I don't know exactly who took him down. I could not understand distinctly what was said—Mrs. Chapman appeared to understand him the best. He said he slept at the tavern below—they told him at the tavern he could not stay there all night. He had on a light suit and a roundabout. When he asked to stay all night, Mr. C. told him there was a tavern above there—Mrs. C. said, I think we can lodge him to-night. This was all that passed that night, that I recollect. He lodged in a nice room, and had a feather bed—his room was not in the garret, but it was a room like a garret. I think he said he came from Santa Fe de Bogota—he said his father sent him to France with a doctor; the doctor died in church with a fit—he said the people of France came and took his trunk, which had a good deal of money in, and the man's too: and told him he was only the man's servant. I was away about a week from Mrs. C's.—Mina was there when I returned. I could not say exactly there was any change in his appearance. I saw Mina and Mrs. Chapman together often. Mina used to have fits, I believe. When he had them we would all be in the room; when they were going off, we were all sent out of the room, except Mrs. C.—She staid in. I did not think he had fits at all. Sometimes he would lie still, and sometimes not; he would get up and walk about after he had a fit. I have known Mina and Mrs

Chapman go into a room together and shut the door—I do not know that they closed the windows. I don't think she treated her husband right. She called him a fool, one Sunday, as we were going to church: this was after Mina had come there. I do not recollect a dispute that took place at the breakfast table. I recollect there was a difficulty between them in consequence of his neglecting to call the people to breakfast. I could not tell it exactly as it was—she told him to call them to breakfast, and he did not go right away; we were going to have prayers: because he did not go, she said she would not have prayers, and they sat down—she took the prayer book and locked it up. I think we had prayers afterwards, but none on that day. The person in the bar is Mina. They rode together more than once, sometimes a long, and sometimes a short time. They rode sometimes alone, and sometimes with other persons—can't say how often they rode alone together. When Mina came to the house he spoke bad English—I could not understand all he said—his conversation appeared to be addressed to both Mr. C. and Mrs. C.—Mrs. C. conversed principally with him. I can't say how long this was before Mr. C.'s death.—I think Mr. and Mrs. C. had a difference about the horse and carriage—I can't say exactly what it was—something about Mina going to town: Mina wanted to go to town.—Mr. C. said he should not have the horse and carriage.—Mrs. C. said he should. I think he did go: Mr. Bishop went with him. Mr. C. gave no reason that I recollect for not letting him have the horse and carriage. I cannot say how long this was after Mina came to the house. I went to Mr. Chapman's to school. Mr. Bishop came there to be cured of stammering—he said he came from Vermont. I do not know where he is now. There were five scholars there—Mr. Cruiser, Foreman, Ash, Fassit, and myself. I never heard her (Mrs. C.) make use of any cross language to Mina.

Cross-examined by Mr. Brown.—I was at school at Mrs. Chapman's six weeks altogether. Mrs. C. had the chief management of the school. I think I had been there about two weeks when Mina came. I commenced school in May. He arrived on 19th of May, I believe; about dusk. I was in the school-room down-stairs—Mr. C., Mrs. C., the scholars, and the children were with me. Mr. Foreman went to the door when Mina knocked. Mr. F. came in and told Mr. Chapman there was somebody there wanted to see him. Mr. C. told him to come into the room. Foreman brought him in. I don't know exactly what Mina said, but he asked for a night's lodging. Mrs. Chapman replied, she thought he could stay there all night. Mina said they had refused him lodging at the tavern below. Mr. C. said there was a tavern above. Mina said he came from Philadelphia that day, and was going to Bonaparte's, for money, I believe. I don't remember he said he had been at Bonaparte's. I don't remember his saying how he came to this country from France—I think he said he had been very ill—I don't remember his saying he had been subject to fits. He said he had been cupped. I was in the room with them till supper time—then I left the room. I was present again that evening when they were together. I don't think Mr. C. showed much interest in him after he told his story. Mr. C. did not refuse him permission to remain. No wayfaring strangers stopped there while I was there. There was no room in the house called the beggar's room. Mr. Ash drove the carriage when they went to Bonaparte's. I believe Mina went for money—he expected to get it from Bonaparte. They set out directly after breakfast—I don't know where Mr. C. was when they started—I was in the piazza. I don't know of Mr. C.'s objecting to their going. I recollect Mr. C. writing letters to Mina's relations—his father and mother. I was once in the room when they were writing letters. Mina was in the room, and took charge of the letters—he said he would take them to Philadelphia. He did not say he would take them to the consul for the purpose of sending them to his father. I have heard them speak of the consul. Mrs. C. accompanied Mina to town when he took some of the letters. I did not understand from

them that they had been to Philadelphia for letters. I think they said they went to the consul's (Col. Cuesta). I believe they mentioned it to Mr. C. I don't recollect what Mrs. C. said took place.—She said Mina dined at the consul's. I do not remember that she said she understood at the consul's that Mina was a distinguished man in his own country. I observed a change in his dress while he was at Mr. Chapman's—he had a new suit of clothes—the first suit was brown. I do not remember Mr. Chapman ordering him a suit of clothes. I remember his getting a suit of black; he said his sister had died. I don't know where he got it, nor that he applied to Mr. C. to get it for him on account of his sister's death.

Re-examined by counsel for prosecution.—The carriage they went in to Bonaparte's had a fall-back top—I never saw any letters from the Mexican consul to Mina—I live in Bensalem, two and a half miles from Mr. Chapman's.

Ellen Shaw, second witness for prosecution, affirmed.—I lived at Mr. Chapman's last April a year, and left there last May. Mina came in the evening, and asked for victuals and lodging. I was milking when he came—the dog met him, and I called the dog away. He then came in, and was going to the kitchen: I told him he could not get in there, and he had better go on the piazza. So he went up, knocked at the door, and asked Mr. Chapman if he could stay there all night. Mr. C. advised him to go to the tavern; Mrs. Chapman took him into the room, and got to talking with him: so they consented to let him stay all night. The next day she had a talk with him, and concluded to let him stay a few days till he got rested.

A day or two after, he wanted to go to Bonaparte's—she concluded she would go along with him in her carriage. They went in the morning, and came back in the evening. After they came back, she said she had concluded to let him stay three years; she was going to teach him English; and he was to give her $2000 a year. I told her she had better let him alone; that he was a Spaniard, and a body did not know what he might do. She said he was a fine young man, and she was going to take him in as her own son; and that she would be a mother to him, and her children would be sisters and brothers to him. After that, Mrs. Chapman and Mina were in the room together almost all the time. A few days after, they went to town; they went on Monday morning, and it was expected they would be back on Monday night; they did not get back till Wednesday night. Mr. Chapman was dreadfully uneasy about their going away. He said he was really afraid there would be murder either on his own side or on Mina's—this was on Tuesday night, when they did not come home. Mrs. Chapman gave Mina some of Mr. Chapman's fine linen shirts—she gave him one the night he came there, I believe. She gave him a suit of blue clothes. They went to town together, and he got a black suit, but whether she gave it to him I cannot say. I don't know that I ever heard Mr. Chapman say any thing to Mrs. C. respecting her conduct. I have heard Mrs. C. tell her husband she was mistress in her own house, and she would do as she pleased. I have heard her say so several times. This was said after Mina came there. I don't know any more than that they used to be together. I was in the kitchen, and they were up-stairs. They used to be together all the time—I used to see them kiss each other—this was before the death of Mr. Chapman. I left there about two weeks before he died. She used to be up in his room a good deal. I don't know that I know any thing else. Mr. Chapman slept in the room where he always did, after Mina came to the house. Mrs. Chapman also slept in the room where she always did. I can't say that all the time I was there she slept in the room with Mr. C. There was one night when he had fits, that she was up with him all night. No other person was up with him. I have often seen her in Mina's room; I have seen her there in the evening and in the day time, and especially when he would have those spells. I have seen her in the morning come down-stairs. I have seen Mrs. Chapman sitting on Mina's bed. I saw her do this in the evening about eight or

nine o'clock. No other person was in the room—Mina was lying upon the bed at the time, whether dressed or not I do not know. Mrs. Chapman had on her night-clothes. I saw her at another time in Mina's room in the day time—I went to ask her what kind of a poultice I was to make for the old gentleman's face—Mr. Chapman wanted me to make a poultice, and I did not know what kind to make. I did not speak to her then; I came away from the door, and went and made a bread and milk poultice. I did not like to disturb her, as she was sitting there talking. She said nothing to me. I once went out riding with them. My reason for leaving there was, there were things I did not like to see; her proceedings and Mina's I did not like; my folks were against my staying there. There was nothing more than what I have mentioned—my folks heard a great deal of talk about them. (This was the reason given why the witness's friends objected to her staying.)

When I went out riding with Lino and Mrs. Chapman, we went to Joseph Wright's, near Bustleton. He was lying in Mrs. C.'s lap nearly all the way, singing love songs. When we got to Joseph Wright's, they went out into the woods together, and were gone for two or three hours. We returned that night. Lino had one of his spells in the carriage, and we had to change seats—I got before to drive, and he got into the back seat, where he soon got better.

I left Chapman's the following week. I can hardly describe the spells (of Mina), he behaved so queer. They did not appear to affect his general health. He was soon over them. Mrs. C. generally attended him when he had these fits.

Mrs. C. and her husband did not live upon very good terms—he complained. I have heard Mrs. C. scolding him. She spoke pretty harsh sometimes,—she wished he was gone from the house, and would get ready and start;—she used to tell him she was ashamed of him;—she said she wished to *** he was gone, for she was tired of him. This was after Mina came to the house. After Mina came, I observed a change in Mrs. C.'s conduct; she seemed as if she was weaned from Mr. Chapman and her family. I one day saw Mrs. C. give her husband a push with her foot. She was very angry, but said nothing.

Cross-examined by Mr. Brown.—I have been examined at the coroner's jury; in the (grand) jury room; and once at Cornwell's by esquire Barker. I don't know that I ever told the story except when I have been called. I have been talking something about it with Mrs. Palethorpe since I came here. I did not tell it to Ann Bantom. I have had no difference with Mrs. Chapman—I thought Mr. Chapman did not settle with me fairly for my wages. They both engaged me, and made the bargain with me. Mrs. C. always had the chief management of the establishment. She generally gave directions and made contracts in regard to it. Mr. C. in some things took very little part to what was going on.

Mr. Sheppard and Mr. Vansant were all the boarders when I went there. She had five children; and a little boy was also boarding there. Mrs. C. taught the school, and made the contracts for the scholars. I don't think the want of harmony was so great before Mina came, as after. Before that they had words—about like other people. My business was in the kitchen chiefly; the kitchen is in the cellar. There was nobody else there. I was confined pretty closely to the kitchen.

Mina was very dirty upon his arrival. He was not much exhausted, apparently. He was dressed in dark clothes. His shirt was not worth any thing. He told me no part of his story before he went to the door. It often happened that those who were travelling applied there. Both Mr. and Mrs. C. were benevolent and kind to those who were in that condition. We had a room called the "beggar's room," on purpose. I am certain it was Mr. C who came to the door—I was standing right before the piazza. I heard Mr. C. distinctly say to him, there was a tavern he could go to. Mr. Ash, or

Mr. Foreman was along with Mr. Chapman. Mina told Mr. C. he had no money to pay for his lodging. I did not hear him say where he came from, or was going to. When he had told Mr. C. he had no money, &c. they went in. I don't recollect any words that passed there but what I have stated. I think Mrs. C. met him in the entry—I did not see her at all.

I cannot say whether she was often engaged in instructing him in the language, as they were so often engaged in a private room by themselves. I mean the parlour. I did not know how the $2000 was to be paid. I made no inquiries. I have heard her say he was a distinguished man in his own country, and very wealthy. He said he was a governor; and very rich, and was going to send over for diamonds. On one occasion, he and Mrs. C. brought news that his sister was dead—he had the suit of black when he came—I don't know whether Mr. C. ordered the suit or not.

I know of no objection on the part of Mr. Chapman to their going to Bonaparte's. Mr. Ash drove the carriage, I believe at her request. Mina thought there was a gentleman at Bonaparte's who would assist him. The account he gave (on their return) was, that Mr. Bonaparte had company, and did not come down to see him. I don't remember that it was said that two Spanish gentlemen had left the count's two days before. They arrived between sunset and dusk. I observed no impropriety as to that matter.

Mrs. C. generally attended to the out-door concerns as well as those within.

I believe Mr. C. wrote letters to Mina's relatives at his first coming. Mr. C. was kind and attentive to him; but he dare do no other. I do not know to whom the letters were written. I heard Mr. C. say that they need not be uneasy about Mina; that he should be taken care of as his own son. I think Mrs. C. wrote to his mother. I do not know how the letters were sent to Mexico. Mrs. C. and Mina took them to the city. I have known Mrs. C. and Mina go to the city when there was no one else with them. That was the time when they went and staid three days.

They gave him a shirt the evening that he came, or the next morning. I heard Mr. C. ask her what he was to do for shirts if Lino had them all. I never knew him to object to her giving the shirt to him when he first came.

I wanted to go to Wright's, and she offered to go. When we arrived there we found they had been whitewashing. Mrs. C. asked me to go along and walk with them. I sat in the room part of the time, and under the tree part of the time. They both sang love songs—he sang in broken English. She sang two or three pieces of songs. In going, Mina drove, and Mrs. C. and myself sat behind. He undertook to lay his head once or twice in my lap. I told him I didn't want to be troubled with such a butterfly. I did not hear him complain of the sun. I did not drive myself, when he rested his head on my lap. I believe I did undertake to drive once or twice, but he said I did not drive right, and took the lines out of my hand.

I lived between twelve and thirteen months with Mrs. C. Religious service was performed during the chief of the time I was in the house; and much good did it do. [Being afterwards asked by the court what she meant by the last phrase, she said, she had no fact to ground her opinion upon, that no good was done by the religious service, except the way things had turned out.]

The beds at Wright's were not brought down-stairs (while cleaning the house). I never knew Mr. C. to request his wife to attend on Mina. Mina did not vomit on the journey. I have known them to ride about the neighbourhood alone—Mina drove. The time that Mrs. C. told her husband she wished he was gone, was three, four, or five weeks before I left the house. I left on Tuesday afternoon, about two weeks before Mr. C. died. He died on Wednesday or Thursday night. I don't know that Mr. Chapman requested that Mina should go to Wright's. The children were to have gone, but they could not be got ready.

Questioned by the Court.—She was not in the habit of singing songs. She

had a piano, and played and sung hymn tunes. I can't tell any of the songs she sang.

I don't know of any improper familiarity at the time they were riding, except that he leaned against her, and she held him in her arms. I know of no other. Mina never sang at home with her.

Wednesday afternoon.

Mr. Brown asked if the prisoner might be allowed to sit by her counsel.

The court said she could not,—an application of that kind had been refused in this court in a former case.

Mrs. Esther Bache, third witness for the prosecution, sworn.—Two weeks before the death of Mr. Chapman, I was at his house two days. Mrs. Chapman was remarkably attentive to Mina while I was there. After I arrived there, she took me up-stairs, and told me that Mina was subject to fits. She begged to be excused, as she said she had to attend on him. She went in and attended on him. I heard their voices distinctly, and sometimes heard Mrs. C. laugh. While she was in the room, I requested her daughter Mary to call her, which she refused to do. I saw Mina next, about dinner-time, and there appeared to be nothing the matter with him.

In the course of the morning Mrs. C. came out, and I asked her how Mina was: she said his life was almost despaired of—he was no better. After dinner, Mina, Mrs. Chapman, and the daughter Lucretia rode out—they were gone till late in the evening. After they returned home, Mina was relating part of his history to Mrs. C. about his passage from Mexico. Mr. Chapman made some inquiry respecting his passage—he received no answer, but very ill looks from Mina. Mrs. Chapman apologized, and said, Mr. Chapman did not understand any thing, hardly, that was said. I retired to my room, and saw no more of Mina that night. Next morning Mrs. C., and Mina, and the servant woman, Ellen Shaw, rode out, and did not return till night—not while I was there, until ten o'clock at night. Ellen Shaw was not to have returned, but I believe she did.

I saw nothing else, except that once at dinner Mrs. Chapman behaved very unkindly to her husband: he did not come as soon as she wished: she told him, that another time, if he was not there when dinner was ready, he should walk off until supper. She repeated it several times. He replied, that he could not at all times leave his study. I believe that was all—Mr. Fanning, Mr. Ash, and her children were present, and some others—whether Mina was present or not, I do not recollect. This was the first day.

Cross-examined by Mr. Brown.—I live near Bridgport. It was in the beginning of June that I went to Mr. Chapman's. Mina drove me down to the house. I was employed in making a dress for Mrs. Chapman. I saw Mina after I left there—he and Mrs. Chapman called at my residence. I was never at Mr. Chapman's before, nor since. It was Mrs. Chapman who told me Mina had fits; he did not. I did not speak to him on the subject; nor to her after she came down-stairs. I saw nothing ailed him when he came down to dinner. They went to a relation of Ellen Shaw's, when she went with them. Mr. Chapman was in the house at the time; I did not hear him object to the journey.

When Mina was mentioning his sufferings on board the ship, Mr. Chapman made some inquiry, in a very pleasant way, respecting his passage. Mrs. Chapman observed my surprise (at Mina's silence and ill looks), and said that Don Lino did not understand any thing that Mr. Chapman said.

I never knew Mrs. Chapman to find fault with her husband for coming too early to dinner. Mina sat at Mrs. Chapman's right hand at table; the chief of their conversation was together. Breakfast, supper, and breakfast were the only three meals I ever saw him at.

I refused to go back to Mr. Chapman's again—the reason was, I did not like the conduct of Mina and Mrs. Chapman towards Mr. Chapman.

By the Court.—I could hear nothing that was said, when they were in the room together.

Ann Bantom, fourth witness for the prosecution, sworn.—I was at Mr. Chapman's on Monday of each week, for three weeks, washing, before he was taken sick. The next Monday after he was taken sick, I went there to wash, and staid till Tuesday night. I came back again on Wednesday, and staid till Saturday night. I saw Mr. Chapman on Monday evening after I went there, and he told me he found he was a little better. I saw him again on that afternoon, and he told me he was not so well. There was some soup made for him on Monday morning by Mrs. Chapman. She made the soup, and put a little salt in it in the kitchen, and told me she would take it up in the parlour and season it. I did not see them take the soup to Mr. Chapman—I left her in the parlour, and saw no more of it after that. I went to the parlour, to get something to use—I don't recollect what. I found Mina in there, and Mrs. Chapman went up just before me. She carried the soup up. There were no other persons in the room but Mrs. Chapman and Lino. I left them there. I don't recollect when I saw Mrs. Chapman again. I saw Mr. Chapman on Monday afternoon; he said he did not feel so well as in the morning. He complained of a misery at his stomach—it appeared to him very much like fire; he told me if he did not get better than he was then, he could not stand it long. On Tuesday evening, when I was going home, Mrs. Chapman called me up to see Mr. Chapman, how bad he was. She told me she knew he would not live, and asked me if I would come back the next day and stay with her. On Tuesday evening, he seemed very bad—I can't tell any thing in particular, but he seemed very sick—I think he complained of pain in the stomach. He did not vomit any—I never saw him vomit. I can't say when I saw him attempt to vomit, but it was while he was sick. I was not up-stairs much. Mrs. Chapman and the children were backwards and forwards attending him. I don't know that Mrs. Chapman was very attentive to him. She was down-stairs a good deal. I don't know that any medicine was prescribed. Dr. Knight was sent for on Tuesday evening about dusk. I don't know that any medicine was given to him.

I first heard him complain of this burning heat in the stomach on Monday afternoon. Mrs. Chapman said the soup was intended for Mr. Chapman. It was chicken soup. I saw it when she brought it down. I threw it out on the ground in the yard;—not in the paved gutter. The chicken was also taken up to him, but he did not eat it—I know he did not eat it because it came down again. I think, but will not be positive, that it was taken up by Mrs. Chapman. The chicken was in pieces. I did not take notice whether it was cut in pieces before it was taken up. A small part of it might have been eaten without my noticing it. It was but a small chicken. I threw the pieces out of doors into the yard, where I threw the soup. The soup was taken up in the morning, but the chicken not until the afternoon. Mr. Chapman was sensible every time I saw him, without it was the night he died. I went back on Wednesday afternoon, directly after Dr. Phillips had gone away from there. I saw him on Wednesday night—he seemed to be in a great deal of pain and misery. He said nothing to me. He talked to Mrs. Chapman; I don't recollect what he said to her. Mr. Bishop, I believe, was in the room at the time. I saw Mina in Chapman's room at different times while I was up there. It was between ten and eleven o'clock on Tuesday night that I left Mrs. Chapman. Dr. Knight, Dr. Phillips, and Mr. Boutcher were there. I don't know when he died—I was a-bed. He was dead when I got up in the morning. Mrs. Chapman told me that Dr. Phillips had been there on Sunday. I did not hear her say, on Monday, or Tuesday, any thing about his being likely to recover.

I did not see Mrs. Chapman put any seasoning in the soup while I was in the parlour. I went right out again as soon as I got what I wanted. I don't recollect what Mina was doing—or whether he was doing any thing. I don't

recollect how much of the soup had been eaten. I saw Mrs. Chapman and Lino frequently together in both the back parlours. Once Mr. Lino had one of his fits in the back parlour, late in the afternoon—Mrs. Chapman and the children and myself were in there with him,—when he came to, she told us he did not like to have anybody in the room with him. She told me and the children to go out. We went,—she staid in, and shut the door and the window-shutters. I don't know how long she remained there. This was on Tuesday of the week Mr. Chapman was sick. I have seen Mrs. Chapman and Mina several times alone together; I have seen them alone in the evening.

Mrs. C. told me that Mina was a young man of great fortune, and a young man she had taken a great liking to. She said she pitied him very much, to think he had lost so much. I don't recollect that she said any thing to me about her husband getting well.

I have seen Mrs. C. in Mina's room where he slept; it was when he had fits—it was the week when Mr. C. was sick. I have seen her standing by him, and at the side of his bed, where he was lying. He was dressed. I don't recollect that it was Monday or Tuesday. I was up no higher than Mr. Chapman's room. It was while Mr. C. was sick, and after his death, that I saw Mrs. C. in Mina's room. Mina's room was in the third story. I don't know that I had any conversation with Mrs. C. about her marrying Mina in case of her husband's death.

Cross-examined by Mr. Brown.—I did not see Mrs. C. take either soup or chicken up to Mr. C. I don't recollect when the soup was brought down—it was about dinner time. I don't know when it was taken up. Mrs. C. put it on the table, and left it there—she did not say whether Mr. C. had taken any of it or not, but said he did not want any more of it. My business generally was not with the victuals. I don't recollect how soon after the chicken was taken up that it was brought down. I don't recollect how long it was after she went up, that I threw it out. I ate none of it, nor drank any of the soup. I could not tell whether any of the soup or of the chicken had been taken. I don't recollect that she said any thing about eating the chicken. I was busy that day both in and out of the kitchen. The whole five of the children were in the habit of being in the kitchen every day. The dining-room adjoined the kitchen. It was on Wednesday that I last went to the house—I am certain I was there on the night that he died. Dr. Phillips was with him when I went to bed, which was between ten and eleven o'clock—he was there next morning. No other physician was there. Mr. Bishop was there. I went up on Wednesday afternoon—I met Dr. Phillips as he was coming away from there.

By the Court.—I don't recollect seeing Mrs. C. take the soup out of the small pot, in which it was made—I won't be certain whether she took it all out. I do not think she cleaned the pot. I think there was rice in the soup. A whole chicken was used, but whether cut up before or after, I cannot say. Mrs. C. gave me no directions to throw the soup or the chicken away. The chicken stood on the table till tea-time, and then I threw it out. I threw out the soup when I washed up the dishes.

When the soup was taken out, the chicken was left covered in the pot. I received no directions from Mrs. C. with respect to the soup. I do not know whether it was the usual practice of the family to throw away a whole chicken that had been boiled for soup. The bowl in which the soup was taken, would hold more than a pint. The soup was standing on the kitchen table, while I was eating my dinner, at that table. The chicken had not then gone up-stairs. I won't say for certain that I saw the chicken taken up. (*Adjourned.*)

Thursday morning, February 16th.

Richard Watkinson, fifth witness for prosecution, sworn.—I reside in Philadelphia, and am engaged in the tailoring business. About the 16th of May,

(the precise date will appear by my order-book), Mrs. Chapman called at my shop in company with Mina. She came two or three times afterwards in his company. On the 16th of June, Mina purchased of me a black suit of clothing. The entry in the order-book stands as follows:

Espos y Mina.	Black Cloth Frock........$34 —
June 16th.	Do. Cas. Pants........... 13 —
Mrs. Chapman will pay.	Do. do. 1 Vest........... 6 —

They were at my shop two or three times between the first and last visits. Mr. Chapman wrote me an order for the clothes.

Cross-examined by Mr. Brown.—This is the order from Mr. Chapman. (Produced and read.)

Andalusia, June 9, 1831.

Dear Sir,—The bearer hereof, Don Lino, will present you these few lines. In consequence of the decease of his sister, (which melancholy intelligence he received a few days ago) places him under the painful necessity of making that change in his apparel which his affectionate regard to her memory demands.

Mrs. C. speaks of your intention to visit us soon with ——— ; I shall be glad if you could make such a visit *very soon*, in order that I may be measured for a suit of mourning, occasioned by the late decease of my much beloved brother, John W. Chapman.

The amount of Don Lino's suit you are at liberty to place to my account. With Mrs. C.'s best respects to Miss R——— and yourself,

I remain, dear sir, your sincere friend,

WM. CHAPMAN.

Mr. Chapman and Mina were not at my shop over three times altogether. At the first visit, Mrs. C. came in, and said she had a young man in her carriage, who had been very unfortunate; he had no money, having lost upwards of $30,000 somewhere in France. He wanted to go to see the consul, but had not a suit fit to visit in. He wanted to get the consul to write immediately to his father, who was the governor of some island; she told me to make them and charge them to her. I told her I would do so. She stated that a remittance was shortly expected from his father, and as soon as the consul got the remittance, he would call and pay. Mina came out of the carriage to be measured. His clothes were pretty poor—he could hardly hold them up.

At the next visit, the clothes were not done—Mrs. C. appeared to be very much disappointed, that she had come all the way on purpose, and they should not be done—they were disappointed, she said, in going to the consul's. The carriage stood at my door, and her daughter Mary was in it.

Mrs. Chapman was pretty much the manager of the establishment while I was there. Mr. C. was an inactive man.

Re-examined.—I was at Andalusia before Mr. C.'s death, as well as after. I went there after that event, to inform Mrs. Chapman, that Mina was ordering too much clothing. I thought it my duty to inform her.

The prisoner in the box (Mina) is the same who came with Mrs. C.

I saw Mrs. C. after I had been to Andalusia. She complained that she was not at home when I called. I told her my errand had been to inform her that I could not make the other suit, as I thought she would be obliged to pay it; that it would be like taking the bread out of her children's mouth. I told her I thought he was a great scoundrel: that I had sent my young man to the consul's to inquire respecting him: the consul said he knew nothing of him, and knew neither him nor his father; and believed him to be an impostor. I told her I thought he was as great a scoundrel as ever lived. She replied, "I hope not, Mr. Watkinson." She then informed me I had acted perfectly right; she thanked me, and bade me good afternoon, and I did not

see her afterwards. She appeared to be very much hurt after I mentioned this fact.

The entry of the last clothes ordered is dated June 28th, and charged to Mina, with the following entries noted :—" *Mrs. Chapman will pay.*" " *Not made.*"

Mrs. C. was with Mina when this last suit was ordered. I told them the suit was of a high price. Mina spoke in Spanish to her, upon which she said, that Mina said $40 was quite cheap; he had often given $50. The price was high for a light suit (for summer), and I began to open my eyes.

It was on the fourth of July that I went up to Andalusia; and four or five days after that I saw her in town.

My shop is at the corner of Chestnut and Sixth-streets.

Elias Durand, sixth witness for prosecution, sworn.—I reside in Philadelphia, and am a druggist. I have never seen Mrs. Chapman, but have seen Mina. I do not remember precisely the time, but I believe it was about the middle of June, that Mina came to my store.

Elias Durand called again.—Mina asked me, in Spanish, if I could speak Spanish. I referred him to my assistant, Mr. Guillou, who is acquainted with that language, and they conversed together. Mr. Guillou told me he asked for arsenic. Two ounces or a quarter of a pound of arsenic was given to him. I think I weighed it and gave it to him myself. Guillou and Mina talked a while together.

Cross-examined by Mr. Brown.—I fix the date of his visit from the circumstance of Mr. G.'s leaving my store in August, and from estimation, I think it was about five or six weeks before. I had never seen him before. I met him two days after in my store. I had seen him pass several times during the day. He looked in my store, as if looking for some person. He stopped once while I was standing at the door, and asked me in Spanish, if the young gentleman who spoke Spanish was in. I replied that he was not. I was absent, I think, in the course of the afternoon. When I came back, Mina, Mr. Guillou, and his brother were standing together at the door in conversation. I think I have seen him at other times in the street.

When I heard of the death of Mr. Chapman, and the suspicions attending it, I thought of Mina. My store is at the corner of Chestnut and Sixth-streets.

By the Court.—I cannot say positively what dress Mina had on the day he got the arsenic, but at the other times he had a black frock coat, with crape on his hat. He was in full mourning dress. I did not learn his name.

(*Adjourned.*)

Thursday afternoon.

Alfred Guillou, seventh witness for prosecution, sworn.—In the summer of 1831, I resided in Philadelphia, and was assistant in Mr. Durand's drug store. I have seen the male prisoner now in the bar at the store. The first time I saw him he came to inquire for the residence of the Mexican consul. He asked me in broken English, which induced me to speak in Spanish, in giving the direction to him. He then left the store, apparently intending to go there. Some time after, probably about two weeks, he returned, and spoke to me—spoke about the weather; and mentioned his being the son of the governor of California, &c. He left the store, and in two or three days returned, and asked me in Spanish, if we had any arsenical soap, for the preparation of birds : to which I replied, that we had not, but that we might prepare it. He said that was useless; but if we had the powder, that would answer. He asked the price by the pound—and then asked for a shilling's worth, which we gave him. He then left the store, and returned that afternoon, or the next day at farthest, and asked me if I would have any objection to write a letter for him, if he were to dictate it in Spanish. I told him I had no objection, and we set at it immediately. I wrote first a rough copy,

and after I had done writing it, my brother Constant Guillou came into the store; he being better acquainted with the Spanish language than I was, I told Mina that he was a more proper person to do it than I was. I introduced him to my brother under the name of Cuesta, and my brother said he would do it, and accordingly did so. When he had done writing it, Mina remarked that he liked my handwriting more than that of my brother, and asked me to copy his rough draught, which I did. This is the letter. (Letter produced and read.)

Philadelphia, June 16th, 1831.

"*Sir*,—I take the liberty of addressing you without having the honour of your acquaintance, from the deep sense which I entertain of your noble conduct toward my friend, Mr. Lino Amalio Esposimina. That gentleman has given me to understand the sincere regret he experiences at not having it in his power to accomplish your request, and, impelled by obligations under which your goodness has placed all his friends, I hasten to put myself at your disposal, and assure you that any commands you may think proper to honour me with, I will, to the fullest extent of my power, accomplish immediately.

"With your kind permission, I will do myself the honour of calling upon you on Saturday or Monday afternoon next.

"My mother, as well as myself, begs to be remembered to Mrs. Chapman.

"EST. CUESTA.

Endorsed—"Mr. William Chapman, Esq."

The flourish, under the signature, was added by me at Mina's request. He went away, and I never saw him again until I saw him here. When he bought the arsenic, Mr. Durand was present. At that visit he wore a pair of false whiskers, and showed me how they were fastened.

Cross-examined by Mr. Brown.—Mina paid me four visits altogether—two on the same day. The last was two weeks and two or three days (about) from the first.

The letter was written on the day it bears date. He told me his name in no visit but the last, when he requested me to write the letter. It was after I had written the first rough copy he told me his name was Cuesta. The Mexican consul has the same name. The arsenic was purchased at the third visit—in the morning of the day that the letter was written. The price per pound was half a dollar—he got either two or four ounces.

Constant Guillou, eighth witness for prosecution, sworn.—(Part of the testimony of this witness was substantially a repetition of that just passed, in relation to the letter. The rest is added.)

While my brother was copying my rough draft, I had some conversation with Mina. He was very polite; said his mother would be very happy to see me. He asked me if I had any intention at any time of going to Mexico; if so, he would be happy to take passage in the same vessel. I think that was all.

Cross-examined by Mr. Brown.—The letter was not exactly written from his dictation, but from his stating the object of it. He said Mr. Chapman had obliged his friend very much—that Mr. C. was not in good circumstances, and he, through gratitude for the favours shown to Espos y Mina, placed himself at Mr. Chapman's disposal. After it was done I read it in Spanish, and he nodded acquiescence.

Edwin B. Fanning, ninth witness for prosecution, sworn.—I was at Mr. Chapman's about the 20th or 21st of June, On Monday, about nine or ten o'clock in the morning, I called at his residence to deliver some books, entitled, The Family Encyclopædia, for which he had subscribed. Upon entering the house I learned that Mr. Chapman was ill. I asked permission to enter the room where he was lying sick. I went in, and found him very ill; vomiting very much; complaining of pain in the chest and head. I

mentioned, while in the room, that I was going to William Hill's, principal of Lower Dublin Academy. Mr. Hill had married a niece of Mr. Chapman's. Mrs. Chapman requested me to say nothing of Mr. C.'s illness unless inquired of by them; and if inquired of, to answer, much the same as yesterday (which was Sunday). I went to Mr. Hill's and returned to Mr. Chapman's the same day, a little after dark. I was requested by Mr. C. himself, to tarry with him through the night and take care of him.

Mr. Brown objected to any evidence of what Mr. Chapman said.

Mr. Ross.—We expect to prove by this witness, that Mr. Chapman said he was not attended to; that when Mina was sick, he (Chapman) was neglected.

Mr. Reed cited 2 *Russell*, 682. What was said by the party injured, directly after the injury received, is evidence.

Mr. Brown took up the same authority, and commented upon it. The attempt is to give declarations of Mr. C. unfavourable to the character of the defendant—though not going to the main point. The neglect of Chapman is no part of the *res gesta.*

They are not declarations made *in extremis*, nor in expectation of death, in which case they are to be admitted.

Mr. Ross.—We allege that these declarations were made after the poison was administered. The deceased must be conscious of his danger, 1 *East's C. L.* 353–4. Here this is proved. Ann Bantom's evidence is, that he said he could not get well. Cites also 2 *Russell*, 686. Our object is to show that she had lost all affection for her husband.

Mr. Brown replied.

Court sustained the objection, deeming the evidence now offered inadmissible at this state of the cause.

Edwin B. Fanning, called again.—I staid with Mr. Chapman until between ten and eleven o'clock. Mrs. C. came into the room twice during that time. The first time she did not tarry long. The second time, she thanked me for my attention to him, and said she would not trouble me to remain with him through the night. I then requested her permission to go myself for a physician; she said, not. Mr. C. being in great distress, I urged the matter, and was again refused. While I was with him I recommended salt and water to be given to him to stop his vomiting, as I heard it recommended. Mrs. C. said she would give it him. As Mrs. C. was in the room, I left it for a short time, and came in again. Mrs. C. gave him medicine out of a tea-cup. It passed for salt and water; I supposed it to be that. I remained in the room fifteen minutes; Mr. C.'s vomiting I thought was increasing. After about fifteen minutes, I retired to the floor above, Mina's lodging room being near mine. Mina being up, I stepped into the room; he offered me his bed, and went below. I went to my own room. I left Mr. C.'s residence next morning between eight and ten o'clock. Mr. Chapman was much the same then as the night before. This was on Tuesday. I was at Bristol the same day, and spoke to Dr. Phillips about him.

The next time I was at Chapman's was not until the Sabbath after his death. I saw Mrs. Chapman; she was cheerful; much as when I was first acquainted with her. I spoke of her husband's death, saying she had met with a great loss.

On Monday evening (my former visit) Mr. Chapman was not as well as in the morning. I can't say that he threw any thing up; he appeared rather to be attempting to vomit. The intervals between the attempts to vomit were about fifteen minutes. The spells would continue about ten minutes. I heard him say, "I cannot live so."

Mrs. Chapman said something to me about the cause of his illness, I think on Tuesday morning. She said, "You recollect that he ate heartily of beef—stale beef. He has not been well since he ate that stale beef." She said this to me in my room.

There was some beef eaten within two weeks before the time she spoke of it. At the time she told me this, I had not said any thing to her about the sickness of her husband. I had seen Mr. Chapman after he had eaten the beef, and he complained of no illness.

Cross-examined by Mr. Brown.—I think it was on Tuesday afternoon I went to Bristol. On the Saturday I left Mr. C.'s he walked with me across the road to Mr. Boutcher's. I don't recollect Mrs. C.'s asking me to go in and see him on that day.

The medicine, given by Mrs. C. to her husband, increased his vomiting. I am the individual who left his name, requested to be sent for, in case of an investigation.

Dr. John Phillips, tenth witness for prosecution, sworn.—I have been called to attend Mr. Chapman's family at various times within the last year. Although I saw Mr. C. in his last illness, first and last, yet I saw very little of him; the greater portion of what I did see of his case, was ten or twelve hours before his death, when he was unable to give me any history of his feelings or his sufferings; I called to see him on the 19th of June, 1831. He appeared on that day to be labouring under very slight symptoms of indisposition. I paid him a very short visit; and advised some very mild course of treatment, I do not recollect what. I left the house very soon, under the impression that any further attention from me was unnecessary. On the Tuesday following, I received information from some source, that Mr. Chapman was much worse. I did not visit him until the following day, as I had no intimation from the family. On the afternoon of Wednesday I called at the house in company with Dr. Brearly; I went to his room, and was very much astonished to find him in articulo mortis. I have some recollection of his symptoms, but not very distinct. His extremities were cold and clammy; his pulse creeping, and barely perceptible; the skin upon his extremities appeared to be collapsed, or shrunken; his hearing entirely gone, which I was particularly struck with; his countenance evinced a good deal of anxiety, and he seemed desirous to know whether he should or should not recover. His senses were so far impaired that I could not make him sensible of what my opinion was. I procured a slate, but could not make him understand by writing. This was while remaining with him during the night. Another symptom was a discharge, per anum, of sanies or bloody serum; I think involuntary. I laid down during the course of the night, desiring to be called, if any alteration should occur. I do not recollect how long I was absent from the room, but came in some time before his death, which occurred about five o'clock, A. M. He appeared rather calm an hour or two before his death, and expired in rather a comatose state. These are my most permanent recollections. The length of time before any inquiry was made, was so great, that they have almost escaped me. Mrs. Chapman was in the room; Mina, I think, was also, but I cannot say how often, or how long.

I took his disease on Sunday to be a mild attack of cholera morbus. That was my impression; how I received that impression I cannot say. I do not know that I received it from any thing said by any of the family. I do not recollect that he was vomiting.

I had a conversation with Mrs. Chapman on Wednesday, respecting his disease. I asked her what had been his former habits and diseases. She told me he had been subject to occasional attacks of vertigo, and that he had once been so much affected that he had fallen down with what were supposed to be apoplectic symptoms. I was not perfectly satisfied then as to the cause of his death, and I am not yet.

Cross-examined by Mr. Brown.—I have no recollection of being there on Tuesday. I think Mr. Chapman said a beef-steak would do him more good than any thing else. When I visited him the last time, I prescribed stimulant applications, as he seemed to be sinking very rapidly. He kept medicines about his house. I saw no want of tenderness to him on the part of

Mrs. Chapman. She left the room on Wednesday night at my request. I brought her and the children into the room as his dissolution more nearly approached. There was nothing at that time in her conduct unbecoming a wife.

By the Court.—I was very much at a loss to account for his death. I have no personal experience of poisoning by arsenic. If arsenic had been administered, it would, I think, have accounted for some of the symptoms, and I am not prepared to say it would not account for all. But I am not prepared to say, that natural causes and natural disease might not produce the same symptoms. No symptoms can give any stronger evidence of poison than probability.

Mr. Chapman was a corpulent, short man—not robust. The symptoms I have described are much those of Russian cholera. Such symptoms might have been exhibited by a violent case of common cholera. (*Adjourned.*)

Friday morning, February 17.

Dr. Allen Knight, eleventh witness for prosecution, affirmed.—On Tuesday, the 21st day of June, I went to see Mr. Chapman. I found him very ill; he complained of a burning sensation in his stomach, and of vomiting and purging. His extremities were cold as high as his knees, and his mouth dry, with considerable thirst. I ordered calomel in small doses, and some other things—I do not recollect what. The calomel was objected to by Mrs. Chapman and Mr. Chapman. I staid about an hour, and then left. I returned next morning, and found Mr. Chapman considerably worse. He was entirely deaf. He was also delirious at times; a symptom which I did not perceive before. He complained as he did on the evening before: I ordered mustard plasters to his feet and hands, and some other things, I do not recollect what. The patient appeared to get worse from that time until he died. I was called about seven o'clock in the evening—(I live about a quarter of a mile from Mr. Chapman's). I found Mrs. Chapman in the room. I called about eight o'clock on Wednesday morning. I did not inquire whether the calomel had been given or not. I do not know that any thing was given that was prescribed. I never saw a case exactly like his before death. I did not perceive any particular appearance after death. I observed that the skin was coloured in different parts, under his eyes particularly, and under his ears. I saw no part of the body except the face—it was dark. On Tuesday evening he had no fever; his pulse was small. Fever does not universally follow cholera morbus; I have seen cholera without fever. Mrs. Chapman did not attribute any cause for his disease in his presence. I do not know on what ground she objected to the calomel. I was twice there on Wednesday. Something was said on that day about sending to the store for medicine, which I had not with me.

Cross-examined by Mr. Brown.—There was medicine sent for by my direction, on Wednesday, to Jesse Vandergrift's store. Laudanum was sent for; I do not know what else. I prepared the calomel at the time I directed it. I did not see it given. I have no reason to say why they did not give it.

I have practised medicine since 1827. The cholera morbus was not frequent in our neighbourhood. I saw Dr. Phillips there on Wednesday—he was not there on Tuesday. I did not on that day hear him complain of his head. I did not examine what he cast up. I do not know that he was salivated. I ordered him five or six doses of calomel on my first visit. Ice and vinegar were applied to his head on Wednesday. He at that time complained very much of his head. I do not believe he was afflicted with a disease of the heart. I attended him regularly from the time I was first called. Mrs. Chapman absented herself more on Wednesday than I thought right. I do not remember her saying that she had no servant. I saw a coloured woman there that evening. Mr. Bishop was there. I do not know that he attended Mr. Chapman. I do not recollect how many visits I paid. I cannot tell what kinds of medicine I prescribed; they were not all of an active

character. I do not know that Mr. Chapman had any reluctance to take the medicine. I have attended on the family before.

I made no particular examination of the body. Mina came after me on Tuesday evening. I was not sent for at any other time. I paid four or five visits from Tuesday to Wednesday. I saw Miss Kimble there on the first visit; I don't remember calling her over there. It was about eight o'clock in the morning that I saw the spots (on the face). I attended Mina in one or two instances. I do not know who sent for me on Tuesday. I do not recollect that Mr. Chapman said any thing about the improbability of his recovery. On Wednesday evening Mrs. Chapman asked me if it would not be proper to inform him how near he was to his end. It is an unusual thing for such spots to appear so soon after death. I cannot account for his death. From any thing that I saw, I do not know that medicine had any effect on him. I cannot account for the spots below his eyes. Mr. Chapman's habit and make of body was of an apoplectic character. I was not acquainted with his constitution. The symptoms that I observed were not apoplectic. Apoplexy was not the cause of his death, in my opinion.

Benjamin Boutcher, twelfth witness for prosecution, sworn.—I was called between the hours of nine and eleven o'clock the night that Mr. Chapman died. When I went in the entry, they were about getting supper. Mrs. Chapman took a candle and lighted me up to where he lay. He seemed uneasy. Mr. Bishop was standing by his bed-side. I walked round, took him by the hand, and asked him how he felt; he gave my hand a squeeze, and looked at me, but did not speak. Mrs. Chapman said he was hard of hearing. She spoke to him, and said, "this is Mr. Boutcher." She then went down-stairs. I sat down with Mr. Bishop. Some time after he called out—Mr. Bishop then got something off the mantel-piece for him to drink—he took some of it. I asked Mr. Bishop what it was; he said it was gruel. Mr. Chapman then had a restless spell again—seemed sick—attempted to vomit, but did not discharge any thing. He lay easy after that. Dr. Phillips and Mrs. Chapman then came up, and Mr. Bishop went down. Mrs. Chapman was telling Dr. Phillips that Mr. Chapman had got out of bed, and fell and hurt his knee. Mr. Chapman then had another bad spell. Mrs. Chapman said she was drowsy from waiting on him; and while she went for the mint bottle, he got up and fell. Mrs. Chapman left the room, and returned in a short time with three or four glasses of lemonade; she gave one to Dr. Phillips, and one to me; and Dr. Phillips said she should give the other to Mr. Chapman. She raised him up, and he drank it, saying it was "fine." The salver and tumbler were handed to me, and I set them on the table. Mrs. Chapman said she was very tired, and would go and lie down. Dr. Knight came in before she went out. She mentioned to me, if she was wanted, to give her a call. That was a little before twelve o'clock. Dr. Phillips said he would lie down. Mr. Bishop lighted him to a room; he left orders for us to wake him. At two o'clock he was failing fast; I called Mrs. Chapman, and Mr. Bishop called the doctor. Mina was in the room where Chapman lay; he asked me if I would not lie down; I consented. He then lighted me up to his bed-room, which was over that in which Mr. Chapman lay. I lay one hour or more. Mr. Bishop came up, and said Mr. Chapman was dead. I went down, closed his eyes, and put a handkerchief around his jaws. They asked me to lay him out; I went home, and sent for David Gando for that purpose; he did not come. I then laid him out. Dr. Phillips, Mr. Bishop, and Mina were in the room. Mina shaved him—he seemed stiff. I tore the shirt down the bosom; there was a bruise on his right side, which I pointed out to Dr. Phillips; he said he expected it was occasioned by a fall. There was another bruise on the knee, and one on the right shoulder. All these marks were on the same side. His neck was a little blue; there was a purple mark about the ears also. His nails were purpled before his death.

Previous to his death, Mina took out his watch, and said Mr. Chapman's pulse beat fifty-five to a minute; after a while he said it beat forty-five. I asked him how many beats there were in a regular pulse? He answered he had studied medicine two years. I said I did not think he (Chapman) would live to see sunrise. Mina said, "when I was sick, Mr. Chapman did wait on me night and day, and prayed for me." He then pretended to cry; but I saw no tears. He then asked me to go down and take some drink. I went down-stairs. Mrs. Chapman asked me to stay to breakfast (this was after the decease of Mr. Chapman). Dr. Phillips told her that I could give her instructions about the burial. She wished him to be buried in the usual form. She said he had relations near, but she had not. I took upon me to invite their friends to the funeral.

I saw a change in Mr. C.'s face after death; it became dark. The body was very stiff one hour after death. I was surprised at it. There was a discharge from the body, of a dark green colour.

My ducks had been in the habit of going to Mr. Chapman's. They were there on Tuesday, the 21st day of June, between two and three o'clock. As I was going to the shop, I looked over towards Mr. Chapman's, and saw the ducks coming towards home. They seemed to be worried. They came in a row, one after the other. I had a fair sight of them, between the shed and the house. I saw Mina standing by a buttonwood. The ducks came beyond where he stood, about ten yards. Before the ducks came through into the road, one of them fell over, dead. The rest came through the fence where the waste water emptied, and then another fell over. When they got nearly across the road, another fell over. One of my boys came out, and I told him to take care of the ducks; I went in the shop. After a little while the boy came to me and said that another was dead, and he thought they would all die. I told him to bury them. There were between twenty and thirty that died that day and the next. They were young ducks. They were of two different broods. I think it was a dry day. Four of the ducks could not get through into Mr. Chapman's yard; those did not die. My wife said, that fish-water would kill ducks; I told her I thought they had been poisoned. They were all stiff. I had chickens at the same time, but I think none of them went into his yard. I believe it is not a common thing for ducks to fall over and die. I never kept any before.

The drain from the kitchen is in that yard; I believe it is covered, near the pump, and above it. The drain passes through under the fence, where the ducks passed through. My house is 60 or 70 yards from Mr. Chapman's.

I do not know that Mina had any birds at any time. I heard that Mr. Chapman had the cholera morbus. Dr. Knight said he had some symptoms of that disease.

My wife sold a chicken to Mrs. Chapman during the illness.

Mrs. Sarah Palethorpe, thirteenth witness for prosecution, affirmed.—I staid with Mrs. Chapman on the night of June 23d. I went up to see the corpse; it was very offensive; I went to Mrs. C.'s chamber, and asked if he was in a state of mortification when he died, he was so offensive. She said she did not know. I said, you and the children had better take leave of him to-night, he will not be fit to-morrow. She answered, she had seen him, she did not want to see him. I asked her if I should take the children; I think she said yes, but I am not sure. I then took the children. Nothing took place that night worthy of notice. Next day, I said there must be some person to walk with her from the carriage to the grave; I asked her if she had a relative or a friend. She said, "why would not Don Lino do?" I said no. She asked me why. I said, he was a stranger, and under size. She then said, "could he not walk with Mary?" (her eldest daughter.) I said, I saw no impropriety in that. We went to the funeral. Mr. Knight walked with her. I saw Lino on the day of the funeral. I had the charge of the house that day

I asked for sugar, and was referred to Lino; he had a bunch of keys; he gave me the sugar.

Mrs. Sophia Hitchbourn, fourteenth witness for prosecution, affirmed.—I called at Mrs. Chapman's about three hours after the funeral. I asked her if Mr. C. did not die suddenly. She said he did, he was only sick five days. She said he died with the cholera morbus, she believed. I asked her if he had his senses when he died; she said she believed he had. I asked her if he was sensible that he was so near his end. She said she did not think that he thought he was so near his end, for the doctors gave him great encouragement. She then went on to state how he was taken. She said, he came in from the garden, and complained that he was hungry, and asked if supper was most ready; she told him it was not ready, but there was some nice smear-case on the table, and he could go and take a saucer full of that. He did so, and ate very heartily of it. They had supper directly, and had some fat pork, which he was fond of, and ate heartily of that. After supper they went into the parlour together; while they were talking he complained of feeling very unwell at the stomach; he thought he would like to take a spoonful or two of spirits; he did so, and felt better. Afterwards they sat there until near ten o'clock; they then retired, and both went to sleep, as she supposed, for she did herself. Some time in the night, between twelve and one o'clock, he spoke to her, and told her he felt in great distress; and wished her to get up and get him some peppermint; she got up to get him some, and went to the medicine chest, and it had been misplaced, and she did not find it until he had taken to vomiting. I think she said in the morning, she sent for Dr. Philips. He gave him something that helped him a good deal. The doctor called the next day, and found him much better; he then said he might eat some chicken soup. She had a chicken killed and made some soup, and gave him a bowl full, of which he ate very heartily and went to sleep. When he awoke, he told his daughter Lucretia to go down and tell her ma that he wanted some of the chicken of which the soup was made. She took the plate that had the chicken on, and sent it up by her daughter Lucretia, whom she told to tell her pa that he might eat as much of it as he wanted. When the plate was brought down, he had eaten all of the chicken except the neck. He was taken worse soon after that, and vomited until he expired. Dr. Knight was in the room; he and Mrs. C. were conversing about Don Lino; she told Dr. Knight that this young gentleman who was with her had convulsion fits, she thought, and she wished him to prescribe for him without his knowing of it, as he had great objections to taking medicine from the doctors; he had studied medicine himself two years. The doctor asked her some questions, and she said she thought dieting would be of service to him; if he would prescribe, she would see that he was paid; he was a gentleman that was immensely rich; his father was governor of California, his mother lived in Mexico, and his grandfather owned a silver mine. This conversation took place after the funeral.

I saw Mrs. Chapman at her house, about a week after Lino had left her to go to Boston. She said nothing of him, except that he had left her without paying for his instructions; she expected he would remit the money from the north.

Ten or twelve days afterwards, between nine and ten o'clock in the evening, Mrs. Chapman came to my house after I had retired to bed. I came down-stairs, and she apologized for calling so late; she understood that I wished to see her, and her son did not tell her of it until after eight o'clock. She asked if Mr. M'Ilvaine and Mr. Reeside had called at my house that day; she understood they did, and she thought it probable they had left some message for her. She asked me if I had seen any thing in the papers respecting the gentleman who had been with her learning the English language, the governor's son, of Mexico. She was informed there was an advertisement of his being robbed of his pocket-book in Washington or Baltimore.

I told her I had not seen any thing of it, but I had heard of it. She asked me if I would lend her the newspapers for a week or ten days past. This conversation was on the Thursday evening of the week preceding that on which Mrs. Chapman went away.

On Monday morning of the next week, I had a little conversation with her at her house. She asked me if I had seen any account in the paper of Lino. I told her I had been informed that he was arrested in Boston on suspicion of poisoning her husband. She says, is it possible! She said, she had never heard of it. I told her I was informed that she was married to him in ten days after her husband's death. I asked her if she had any idea that Lino had poisoned her husband? she said she had not. She asked me if her name was in the paper; she said she hoped not. I told her I was surprised she could have done such an imprudent act. She made no reply for a moment. I told her they must be facts, or they would not dare to publish them. She then acknowledged that she did marry him, and stated the reasons why: he was very rich, and she thought he had a great disposition to go travelling, and therefore she thought it was best for her and her children's sake. The conversation was then dropped.

Cross-examined by Mr. Brown.—I live within half a mile of the place. I have been there on a visit, ten or twelve weeks. I saw nothing improper in her conduct. She was very economical. She was the owner of that establishment. She told me that Mina was to pay her a large sum of money for his instruction. It was in answer to my question that she told me that he had gone away without paying her. When she said she hoped her name was not in the paper, she said it would have an effect upon her character.

(*Adjourned.*)

Friday afternoon.

Mrs. Ann Smith, fifteenth witness for prosecution, sworn.—Desiring to place my two children in a boarding-school, and having heard a favourable character of Mrs. Chapman, I went to her residence in the stage, with my eldest daughter, to make arrangements for that purpose. A passenger informed me on the way that Mr. Chapman had been buried the day before. I went to Mrs. Chapman's house, and knocked; a lady with a black dress, and white turban, with a lilac border, came to the door. I asked for Mrs. Chapman. She said, "I am Mrs. Chapman, walk in." I introduced myself to her, and was making arrangements with her about my children, when one of her children said, "Mamma, here is Don Lino coming with two ladies." She turned to me, and said, "A gentleman who is learning English, was kind enough to go to Philadelphia, and get me help, for I am very bad off for servants." While we were talking, he came in (the same person who is in the box), dressed in deep black. I then made my arrangements;—Don Lino left the room. When I got into the carriage, she observed, "that is the carriage that was at my husband's funeral yesterday." Her manner appeared as if there had been no trouble in the house; except once she went to the parlour window and said, that the sun looked gloomy.

I took my children there four or five weeks after. I found Mrs. Chapman in the utmost imaginable grief. I was sitting with my husband in a room which was called the ball-room, when Mrs. Chapman came in, and asked me if I would be kind enough to send one of my children to a neighbour for a newspaper. I told her we were strangers, and I thought she had better send herself. She said she had been troublesome for papers, and would be glad if I would send. My husband said, "Yes, Ann, I would like to see the papers myself." I retired to my chamber, and while there, Mrs. Chapman came up and asked me if I would be kind enough to step into her chamber. When I went in, I found her sister (Mrs. Green) lying in bed, in tears. Mrs. Chapman then said to me, "Mrs. Smith, you appear to be a good-hearted woman: I am now going to place the same confidence in you that I would in my dear

sister." I replied, "Mrs. Chapman, I hope I will not betray your confidence,"—having not the least idea what she was going to relate. She then said, "Mrs. Smith, this young man, of whom you have heard me speak, who has been boarding with me, I fear has turned out an impostor."

She had before told me, that this man came to her door, and asked for a glass of water; he went in, or was taken in to the school-room: he there asked how far it was to Joseph Bonaparte's; he said his father had sent him to this country with thirty thousand dollars—when he got as far as France he was robbed—a friend had given him one hundred dollars, with one half of which he paid his passage to this country—when he got here he had but ten dollars, with which he bought him clothing. He said his object in going to Bonaparte's was to see a friend of the name of Cazenove; if he could see him, he could draw on him to any amount. After telling that he was the governor's son of Mexico, he asked if he might be permitted to remain there all night. Mr. Chapman objected, saying, there was a tavern to which he could go. Mrs. Chapman said to her husband, "My dear, you know there is a bed which has just been left vacant." Her husband then acquiesced, and said, "My dear, if you think so." Next morning he said, "Suppose you go with this gentleman to Bonaparte's, and get some one to drive you." They accordingly went to Bonaparte's. On their arrival the servant told them that Mr. Cazenove had been there, but had gone away; they then asked for Count Bonaparte, but he had company, and could not be seen for two or three hours. She then said, she would have to return to her school that night—and accordingly they returned. The next day he proposed going with her to the consul's at Philadelphia, and they went. While there, the consul and his sister came into the parlour; after the customary salutations, that lady turned to Mrs. Chapman and said, "We are much obliged to you for your attentions to this young gentleman. He is a young gentleman of very large fortune in his own country." Mrs. Chapman then said to me, "Mrs. Smith, I can declare to you upon holy writ, that if she had not told me that this young gentleman was a gentleman of large fortune, I should not have been deceived; but she said so, and I believed it."

She then stated that her husband gave him an order on Mr. Watkinson for a new suit of clothes. He returned from Philadelphia, saying, that he understood his sister was dead, and that he wished a suit of black clothes. In a day or two after he stated that his sister was not dead, as he had said, and that he wished to have a suit of brown clothes.

She stated that he asked Mr. Chapman to write to his father for him. Mr. Chapman said to him, "Lino, you know I do not understand your language—if you will write it, I will sign it." After signing it he said to him, "Lino, I have done for you what I never did for anybody in the world. It shows the confidence I have placed in you, for I have signed what I do not understand." She said she wrote a letter also, of which she showed me a copy.

Copies of the letters produced and read by Mr. Reed.

Andalusia, Bucks County, Pennsylvania State, May 16, 1831.

Sir,—I have the pleasure of addressing you on a subject that will doubtless be very interesting to you. On the 9th instant your son Lino Amalia Esposimina came to my house. He has a great desire to learn the English language, finding that travelling in the United States is attended with considerable difficulty, without a ready knowledge of that language. He writes to you by this conveyance, and will acquaint you with his circumstances. He will continue here until he hears from you, during which time it is his intention to exert himself in acquiring such an addition to his English education as the time may admit of.

Herewith you will receive one of my publications, which will make known to you the profession in which I have been successfully engaged during the

last fourteen years: should your station in life allow of your giving publicity to the cures that have been effected by me and my lady, great encouragement will be afforded to the unfortunate objects labouring under such a calamity as stuttering, stammering, or any kind of impediment of speech, in your section of country. Since the time that I was so fortunate as to effect a cure on myself, I have had four hundred and eleven pupils of both sexes, and all ages and conditions in life: of that number, several have come to me from Europe, the West Indies, and great distances in the United States.

With the greatest respect, I am, sir, your most obdt. servant,

WM. CHAPMAN.

To his Excellency the Governor of the Province of California, Don Antonio Mara Esposimina,—City of S. Barbara, Republic of Mexico.

To the care of William Taylor, Esq. American Consul, Vera Cruz.

Andalusia, Bucks County, Penna., May 16, 1831.

Dear Madam,—Though I have not the pleasure of being personally acquainted with you, yet as kind Providence has directed your son to my house (which I wish may be HIS HOME, till he receives intelligence from his fond parents), I am happy to inform you that it will be the pleasure of my husband and myself to treat your son as our own child, while he remains in our house, and I sincerely hope he will not soon leave us, as myself and family are already much attached to him. Though he speaks the English language but imperfectly, yet he is very intelligent, and has given us interesting accounts of his family, in the English language. His manners are so mild and engaging, that he wins the affections of every one in our house; even our youngest child (a little boy three years old) is delighted to remain by him while taking our meals at the table. He has commenced studying the English language under my direction; and I shall be well pleased if his improvement should be such as to induce him to encourage others from California and Mexico to patronize me by sending their daughters to be educated by me in English. Your son talks of spending three years in my house, which I hope he will do; and if he does, you may rest assured, Madam, that parental attentions shall be extended to him by myself and husband. With much respect to your husband and family, I subscribe myself, dear Madam, your sincere friend,

LUCRETIA CHAPMAN.

Para la Sn. Dn. Maria de Calme Mirones, en la Republica y Cuidad de Mexico.

Care of Mr. William Taylor, American Consul, Vera Cruz.

Mrs. Smith continued.—I forgot to tell the manner in which she said her husband died. She stated that he had eaten a very hearty dinner of pork; that he became extremely sick, took some brandy, which he said made him feel much better, and went to bed. In the night he awoke her, saying he was very ill, and asked her for the peppermint. She got up and gave it to him, or was in the act of giving it to him, and he became deadly sick at the stomach. The next day they sent for Dr. Phillips, who ordered him chicken broth; after taking this for a day or two, he got much better. He then said he had taken so much of the chicken broth and had got so much better, that he would eat some of the chicken without the broth. She dressed the fowl herself, and sent it up by her daughter. When her daughter returned, she found he had eaten nearly all the chicken up—being very much surprised, she went up-stairs and said, "Mr. Chapman, how imprudent to eat so much!" His reply was, he had lived so long on chicken broth, and the chicken tasted so palatable, he could not help it. He was then taken very ill, and shortly after died. She then stated that after the death of Mr. Chapman, this man

(Mina) became very attentive to the family. A few days after Mr. Chapman's death he came to her and said, "Lino has one heart—Lino never forgets a favour—If you will marry me, I will take you to Mexico, and my mother will never forget what you have done—she has gold mines there, and you shall share a part of them." She was surprised, and said, "Lino, would it not be more proper for you to marry my daughter Mary?"—He said, "No, it is you, Mrs. Chapman, that I wish to possess—it was you that took me in your door, not knowing who I was," or something to that amount. She then mentioned to him the impropriety of marrying so shortly after her husband's death. He said, it would be thought nothing of in Mexico—he did not wish that it should be known here; but it would be impossible for them to travel unless they were married. He said they would go to New York and get married; he would return to her house and take care of her family, and she could go on and bring her sister, Mrs. Green, who would take possession of the property while she was gone, and also take care of the school. They were accordingly married, and she went on for her sister. During her absence, two gentlemen, whom Mina styled the minister and one of his secretaries, came to the house.

He desired to introduce them to Mary, her eldest daughter, but she excused herself, not being dressed. He then asked her to go to the store and get some refreshments. While she was gone, Mina took a trunk of Mr. Chapman's, filled it full of books, and gave it to those gentlemen. A few minutes after, Mrs. Chapman arrived. The children told her that their papa's trunk was gone. Mrs. Chapman having questioned Mina about it, he said he had given them a few books as a memento of Mr. Chapman, and that the trunk would be returned again. She told him her silver spoons were gone also. He said a black woman had taken them, and that he followed her to Philadelphia a few days after, and accused the woman of it—she was much confused, acknowledged it, and paid him for them in part, promising to pay the rest.

After hearing these stories, I said, "Mrs. Chapman, I should not be surprised if this fellow had poisoned your husband." She gave a sigh, and said, "Do you think so, my dear—those gentlemen intimated the same thing." I asked, what gentlemen. She said, "Mr. M'Ilvaine, Mr. Blayney, and Mr. Reeside." I observed to her I had not seen them. She said, "No, ma'am, as you did not know any thing of their business, I did not mention it to you." I observed to her, I was very much shocked to hear it. I wished to be out of the place. Her reply was, that "hearsay was no witness."

A few days after that conversation, one of my children remarked that she thought Mrs. Chapman was going away; she was getting her riding-dress brushed up. The house was in a complete state of distress and confusion every way. Mrs. Chapman was sitting, sewing, in her chamber, preparing to go; as I passed her door, she observed to me that she was going a little way to sell some books, she was badly off for money, and she meant also to take her daughter Mary with her, in order to save her feelings. My reply was, "Mrs, Chapman, don't you think you are wrong to go at this time, it looks like running off." She seemed a little hurt, and said, "No, ma'am, my object is to sell some books and get money." I believe she went away that morning, or the morning before Mr. Ross (the attorney-general) came. I had this conversation with her the night before she went away.

Mrs. Chapman told me further, that Mina once asked her for her watch. She told him he had Mr. Chapman's already. He said, he wished to have her watch as a memento of regard. He then took a chain and presented it to her, saying, "this is a chain that a friend of mine gave me. I give it to you in return for the watch—when I come back, you shall have it." He went away, taking all the money in the house, even to a little that her sister had. She at first wore the chain around her neck, but finding it irritated her skin very much, she observed to her sister, that when she went to Philadelphia she would inquire whether it was gold. She went up-stairs, and found on the mantel a bill for himself and two females. (*Published with the letter to Mina.*)

She got alarmed, and went to Philadelphia, and inquired whether the chain was gold. She discovered it was nothing but brass. She then made up her mind, she hoped he would never return. In the midst of her talk with Mrs. Green, he came in. She said, "Lino, leave me." He replied, "What is the matter? if an angel from heaven had come and told me a wife of mine would behave so, I would not have believed it." She said, "Lino, the chain you gave me is not gold." He replied, "if your affections are so slender as a chain, I can explain that to you. When I gave you the chain, I told you a friend had given it me—that friend might have deceived me, or might have been deceived himself." As to the note from the City Hotel for the two females, he stated, that whilst he was in Philadelphia, a shower of rain came on, and he ran under the arcade for protection. While he was there, two ladies of distinction came and asked him if he had an umbrella—he said no, he was under there for protection himself—he remained there a little while with them, and then took them to the City Hotel; which accounted for the bill. She then said, "Lino, my sister is not at all satisfied with this conduct." Said he, "We had better be separated then—I find I have more wives than one to please." Mrs. Chapman replied, the sooner the better. He then said, "Remember, Mrs. Chapman, before we go, I must tell you something." She asked him what it was. He said, "I cannot tell you in the presence of your sister. If you will come into the other room, I will tell you." She went into the room with him, and returned to her sister, saying, "Sister, Lino is not an impostor, he is a clever fellow." I asked Mrs. Chapman what it was that he told her—she said, "Well, ma'am, that's of no consequence, it was something between ourselves.."

Cross-examined by Mr Brown.—She said, she went to the consul's with Lino and her little son William. The consul asked them all to dine, but she declined, and went to Mrs. Lebrun's and dined there. She returned, and found Lino drinking wine—she took him home in the carriage with her.

She said, that Lino told her the minister had rooms in the United States Hotel, and was absent from town; he (Mina) had the privilege of going there whenever he chose, and had servants to wait on him. I understood from her that she saw the gentlemen at her house, who were called the minister and his secretary. They were at dinner on her return. One of them was a genteel looking man, the other not so much so. I think I was at Mrs. Chapman's three months.

I hereby certify that on this fifth day of July, in the year of our Lord one thousand eight hundred and thirty-one, Lino Amalia Esposimina and Lucretia Chapman were by me united in holy matrimony, agreeably to the form prescribed by the Protestant Episcopal Church in the United States of America

BENJ'N. T. ONDERDONK,

Bishop of the Protestant Episcopal Church in the State of New York

New York, July 5, 1831.

Witnesses present,
John A. Portal,
James Brochard, by John A. Portal.

Willis H. Blaney, high constable of Philadelphia, sixteenth witness for prosecution, sworn. (This witness proved the handwriting of the prisoner and authenticated certain letters about to be produced.)

Certain letters between the prisoner and Lino were here given in evidence; but are omitted, as immaterial to a full understanding of the case.

Joseph M'Ilvaine, Esq. Recorder of Philadelphia, seventeenth witness for prosecution, sworn.—In the latter end of August last, between the 20th and 25th, it chanced, that in the absence of the mayor, the direction of police of the city fell upon me. Mr. Blaney placed in my hands the letter of 31st July, 1831, which he had received from Washington, as a part of the evi-

dence that Lino was an impostor. I thought that the conduct of Lino ought to be inquired into; and accordingly went, on the 28th or 29th of August, to the neighbourhood of Mrs. Chapman's residence, taking with me Mr. Blayney and Mr. Reeside. We went together to her house, where we waited until her return from church. I then requested to have a conversation with her in a private parlour. I introduced the subject by saying that I had understood that a person, calling himself Mina, had spent some time in her house; that I had in my possession very satisfactory evidence that he was a swindler and an impostor; that it had become my duty to exert myself to have him arrested; and that I also had reason to believe that she had suffered from his impositions. I told her I would be obliged by such information as she could afford me as to what he had done. She said, she could not believe that he was an impostor; that he had represented, and she had believed, that he was the son of a distinguished Mexican, and began to tell me how he had come to the house. I changed the subject, as I was seeking for other matters, and asked her if he had not to a considerable extent injured her or plundered her of her property? She said no, pretty promptly. Having in my possession the letter last read to the jury, naming various articles, I asked her if he had not taken from her a horse and wagon. She said that he had taken the horse and wagon, but that his excuse was, that he had left them at a house in Twelfth-street. I then mentioned the spoons to her. She then gave me the same account of them as that related by Mrs. Smith. I named all the articles, and she admitted that he had carried them away. About this time Mrs. Green came in and took a seat. I then said to Mrs. Chapman that I had it in my power to convince her that this man was an impostor. I asked her if she knew what money he had when he left Bucks to go to Baltimore. She said about fifteen dollars. I asked her if it was possible he could have had $500 of the notes of the Farmers' Bank of Bucks county. She said it was impossible he could have had it. I told her I had his advertisement of having lost that sum in notes upon that bank, and that he had used that advertisement for the purpose of defrauding several persons in Washington; and it was therefore my duty to see that he was arrested. I then asked her if she could not tell me where he had gone when he left her house last. She said he had been gone from her house two or three days. She and Mrs. Green both said, he had only told them he was going to the north.

I think the next subject of conversation was introduced in this way: I said, that from my knowledge of the character of this man, who had been entertained in her house, and of the lower classes of the nation to which he belonged, and from the information I had received of the circumstances attending the death of Mr. Chapman, and the motives I could conceive a man like him might have to plunder a woman like her, I had a very strong impression that Mr. Chapman had died by poison, and that Lino had administered it to him. There was a very marked effect on her countenance when I mentioned this; as much as I had ever witnessed. I then asked her if nothing had occurred within her observation to make her suspect the same thing that I suspected, or to strengthen the impression I had communicated. There was a very decided pause, occasioned by the feeling which the question had produced. I could see that she made a great effort to recover, and she succeded. She answered, no; she had seen nothing of the kind; that Lino had been Mr. Chapman's kind nurse during his illness, and had given him a great part of the medicine he took. She then instantly told me of the great attachment Mr. Chapman felt to this man; and said, she could produce me letters that would establish that point. I think I waived seeing the letters at that moment, and put a question which led her to speak partially of the symptoms which attended her husband's death. She said that he and she were talking together by themselves, when he complained of violent pain. He asked for a small quantity of brandy, which she gave him; he seemed to be relieved till bed-time, and went to bed and slept soundly; he awoke in the night sick,

and she arose to get the peppermint, but could not find it. From that time he was exceedingly ill, and had symptoms of cholera morbus all night; and Dr. Phillips came the following morning. I do not think she went into more details, except as to the visits of Drs. Phillips and Knight. She said that these symptoms of cholera morbus continued until his death. She returned to the point from which I had diverted her, as to the reception of Lino into the house. She seemed desirous to convince me that the attentions paid him were with the entire approbation of Mr. Chapman. She produced the copies of letters from Mr. Chapman to the father of Mina. She told me also of a conversation that she and Mr. Chapman had had, a day or two after Mina's arrival there: at which they talked the whole subject over, and had come to the conclusion that the reception of Mina into their house had been a fortunate event for them in a pecuniary point of view, while, at the same time, it had enabled them to do an act of kindness to a friendless man. I brought her back to the fact, that this man was an impostor: I again mentioned something of the business at Washington. She then expressed surprise that he (Mina) had been so much of his time in Washington. She said she supposed, from his account, that during his absence, he had been to New Orleans and back. I remarked that if she would consider the time of his absence, which it was admitted had not been more than between two and three weeks, she would find it was impossible he could have been half-way there and back. She said, that when he had returned and told her he had been to New Orleans, she had made the same remark; to which he replied, he had gone all the way on a rail-road, and had travelled night and day at the rate of thirty miles an hour. I told her there was no rail-road to New Orleans, and that this was a palpable deception. I then urged her to inform me where he was; as I had proved to her that he was a swindler, and said it was her duty to give me that information. She denied any knowledge further than that he had gone to the north. I left her with the assurance that if it was possible by any effort of the police, this man should be taken and punished for his crimes. The effect of this interview was to leave a mystery upon my mind, and I determined to be quiet—to create no disturbance in Bucks; but to arrest this man if possible, and then communicate to the authorities of Bucks what information I should obtain. I learned that he would be in Boston on a particular day, and I took means to have him arrested.

On the 10th of September Mrs. Chapman came to my house. I had an interview that morning with Mr. Campbell, her counsel, and had told him that I had reason to believe that Mina was then in custody in Boston. Between twelve and one o'clock Mrs. Chapman came to my house. She referred to the interview I had had with Mr. Campbell in the morning, and said she had come to have a conversation with me on the subject of her situation. I repeated to her that Mina was in custody, and told her that I had learned from Mr. Campbell that morning, that she had been married to Mina on the 5th July. She said she had come, by Mr. Campbell's advice, to inform me how far she had been deceived and injured by Mina; and that her object was, that I should advise her what she should do to protect her and her character from the consequences. I told her it would be very difficult to give her advice; that her conduct had been imprudent, and that it was gross infatuation to have taken the course she had; that I could not promise that any step she could take, could relieve her from the consequences. That there was but one possible course that could do her any good, which was, to convince the public that she had been, throughout this business, the victim of deception, and that she ought to show her sincerity by giving me all the means in her power to bring him to justice; that if she chose to be candid in her communications to me, I would do all I could, consistently with my duty, to save her feelings, and rescue her from the consequences, particularly her character, which was involved in these proceedings. She assented to this course, and I proceeded

to examine her as to all the details. All conversations that I held with Mrs. Chapman upon this assurance, I hold to be strictly confidential, and I am not at liberty to give a single word she then said. It is proper I should say, that from the moment she occupied that confidential position towards me, I purposely abstained from putting to her a single question relating to the death of Mr. Chapman, which I thought could involve her. Whatever was said, was her voluntary communication. I confined myself to the frauds of Mina upon her.

Mr. Brown (after conferring with the prisoner).—We waive all objections, sir.

Mr. M'Ilvaine continued: Our conversation that day was not a very long one. The first thing she did was to produce a letter she had received from Lino, dated at Brewster, Massachusetts, enclosing a draught on a man named Bitonia, which she said was a fictitious name, or at least, that the draught was of no value. Upon the receipt of this, she said, she had become satisfied of the truth of my assurance to her that he was an impostor; that she had come to town in consequence, and that among the first things, she had learned the history of her horse and wagon, which he had sold. I assured her that the draught was fictitious. I then inquired whether he had palmed upon her any document or paper. She produced several papers for me to look at. The first was a certificate from the minister of Mexico resident at Washington, certifying that Lino and Mrs. Chapman were lawfully man and wife. The moment I cast my eye upon it I said, "that is in Lino's handwriting, and that seal is a forgery." The name and titles of the minister were printed at the head of the certificate. She said she knew it was in his hand-writing but he (Mina) had explained to her how it came to be so; that he had written to the minister for a certificate of this kind; the minister had answered that his secretary was absent, and he was too busy to write it himself, but that such was his confidence in him (Mina) that he sent him a certificate, signed, which he might fill up for himself. I told her she must give me that paper, as it would enable me to detain him on a charge of forgery committed in Pennsylvania. I asked her for what purpose this paper was obtained; she said she had repeatedly told him, after they were married, that as his health was infirm, in case of accident or death to him, she would have no means of claiming her rights; that, after repeated promises, he finally produced this certificate. She expressed great anxiety to obtain a divorce from Mina, and asked my opinion on that subject. I said, I could give no opinion. This was all that passed She got up to go, and left on my table the papers referred to; went towards the door, and came back, put her hand on the papers, and asked whether these communications and the leaving of these papers might not bring her into trouble? I told her she had thrown herself voluntarily upon me, and I had pledged myself to her; I had nothing to add; and it was still for her to decide whether the papers should be left or not. She reflected a minute seemed agitated; and finally said, she would leave them. She then left me, intending to go in the stage.

About 8 or 9 o'clock that evening she came again to my house, as she said she was too late for the stage. She introduced the conversation by ask ing my opinion on two points of law; one as to the validity of a deed she had in her possession, and the other as to administering to the estate of her husband. I told her I could not be considered as her counsel, but I would give her a word of friendly advice, which was to omit no formality, but to administer herself. She was averse to this course; I told her she must do as she pleased, I would not be considered as her counsel. She gave me a great number of details in relation to Mina, much of which has been related by other witnesses. She gave me the story of the ladies at the United States hotel, as related by Mrs. Smith, with some additions which make it still more improbable; such as, that, from the arcade they went to the Chestnut-street theatre, from thence in a carriage to the United States hotel I told her it

was singular she should have been deceived by such a statement. She said, his excuse for the ladies not going home, was, that their clothes had got wet in the shower, and that he had been up all that night with the servants of the hotel drying their clothes in order that they might go home the next morning. She told me further, that after their marriage (Mina and herself) he had taken her to an apartment in the United States hotel which he called the minister's room. (The ladies alluded to were alleged to be those mentioned in the bill, and note of Mrs. Chapman annexed.) This conversation took place on the evening of the tenth of September. On the following Monday I received information of the arrest of Mina in Boston. I immediately forwarded an affidavit of the charge of forging the certificate, and wrote the same day to Mr. Ross to come to Philadelphia and receive the case into his hands. So far all was kept secret. As soon as I had heard of Mina's arrest I wrote to Mrs. Chapman.

On the Saturday, when Mr. Ross came, I was called into the entry, and found Mrs. Chapman there. I got Mr. Ross as quietly as I could out of the house, and asked Mrs. Chapman, with those who accompanied her, into my office. On that evening the first publication upon the subject in Philadelphia was made, in the National Gazette, copied from a New York paper. Mrs. Chapman came in with her sister, Mrs. Green, captain Baker, and her niece, Mrs. Baker. She said she had brought those persons for the purpose of giving further evidence of the frauds of Mina. Captain and Mrs. Baker then informed me that they had just arrived from Cape Cod; that they had come on at the recommendation of Mina for the purpose of visiting their aunt; that Mina had been at Cape Cod with letters furnished by Mrs. Chapman, to her friends there; that her friends had received him with open arms; that he had made himself very agreeable; had communicated to them his great wealth, and the immense benefits he had conferred, and still intended to confer, on her; that he had represented that he had $1,500,000 a year from his gold mines; that he had furnished Mrs. Chapman with six or ten thousand dollars in gold, with which she had erected the most elegant house in all that section of the country; that he intended, when he received remittances, to erect a palace on the bank of the river; that he had recommended all her relations to come on and visit her; that he had offered to them some situations on a farm adjoining that of Mrs. Chapman, which he was going to work with slaves brought from Mexico; that to one in particular he offered the place of overseer. It was also mentioned that he had paid, while there, very particular attention to a niece of Mrs. Chapman's, and that this young lady had followed him to Boston with a view to marry him. I was able to show, by the date of the arrest, that the young lady had escaped by about twenty-four hours. It was also mentioned that while at Cape Cod he had lost his pocket-book, containing a large sum of money. After I had heard all they had to say, I entered again into conversation with Mrs. Chapman. I asked her what were the motives which induced her to pay such extraordinary attention to a stranger? Her answer was, that they believed him to be a man of great wealth, that he promised them very large sums of money, and that they expected to derive great benefit from him. In one of these interviews she produced me two papers in Spanish, which she said were written at a time when he was sick at her house, and when it was apprehended his life might be in danger. (Papers produced.)

(*Endorsed in Mrs. Chapman's writing*) Don Lino's will.

TRANSLATION.

15,00000 dollars. Be it known by these presents that I, Lino Amalio Esposimina, as my last will, leave to Mrs. Lucretia Chapman the sum of fifteen thousand dollars for having assisted me with particular attention before my death, which sum will be paid in the city of Mexico. In witness whereof I execute this at Philadelphia, May 28, 1831.

(*Seal, &c.*) LINO AMALIO ESPOSIMINA.

(*Margin*) This is worth $15,000.

These were executed in order that, if he should die, they should be remunerated for their kindnesses. I remarked to her that it was very extraordinary that they should be deceived, when in the body of the order $15,000 is named, and in the margin, in figures $1,500,000. During all the interviews, I was particular not to say any thing to her that might lead her to speak of the death of her husband. I kept the murder of Mr. Chapman out of view from the time she first came to town. In all these interviews she evinced a strong desire to be separated from Mina. When I told her that these frauds must be the foundation of her divorce from Mina, she seemed anxious that they should be investigated. This interview of the 17th September was the last that I had with Mrs. Chapman. The publication spoken of in the National Gazette of that day, alluded to her.

The next morning Mr. Ross came to me, and I delivered the papers to him, and gave him a statement of the case. Since that time I have taken no part in it.

Cross-examined by Mr. Brown.—On one occasion she told me, that when Lino was urging her to marry him, he said it was her husband's dying wish. Mrs. Chapman said that had operated with her.

The letter of July 31st was enclosed to the high constable of Philadelphia, in a letter from Mr. T——, in Washington city, which stated that Mina had swindled him. It was taken out of the post office by Mr. T——. When sent to Philadelphia, it had been opened. I did not know of the marriage when I perused that letter. Mrs. Chapman did not know that I was possessed of it.

By the Court.—Whilst I was telling her of the probability of Mina having poisoned her husband, her countenance became livid; there was a great heaving of the bosom; I thought she would lose herself under the agitation. She did, however, after a considerable pause, recover her self-command, and gave me the answer, "No; I have seen nothing of the sort; Mr. Lino was my husband's kind nurse during his sickness." I did not think there was an expression or appearance of surprise, as I expected there would have been. I do not say it was fear; it did not look like surprise. I was disappointed at the moment, for I had hoped for such an expression of surprise, and that she would have inquired of me what reason I had for suspecting him. She did not make such inquiry, either then or at any subsequent period. These are my reasons for saying it was not surprise: she leaned upon her arm; did not look me in the face; and from the middle of the sentence, from the time my object became apparent, there was a very striking change of countenance to as livid an expression as I ever saw; accompanied by a convulsive heaving of the bosom, as if by an effort to control feeling, until the sentence was ended, and for a considerable pause after. The interval was such, that I thought she would have sunk under the feeling, whatever it was. She recovered herself, and made the answer. The effect was unsatisfactory to me at the time; I did not know they were then married. I think she said, she did not think it possible that Lino could do any thing so diabolical.

Brewster, Sept. 1st, 1831.

Mrs. Chapman—Dear Madam: It is with much pleasure I inform you of my arrival at this place, and with your friends, who I am pleased to inform you are in good health. Your recommendation to General Cobb I am very much pleased with, whose house I now reside; I called at your sister's, Mrs. Abigail's this morning who with her family are in good health. Mrs. Baker I will visit to-morrow, as she lives at a distance of six miles from this place. I shall leave this place for Boston in two days, where I shall remain until I hear from you. With the enclosed order I wish you to call on Sn. Dn. Juan Bautista Bitonia at *Phild.* and forward me the amount of the order. To the care of Messrs. Elijah Cobb & Co., merchants, Boston. I wish you to send the money soon as possible, as I shall stay in that city until I hear from you. If you wish for money for your own use, please draw on the above named

gentleman, who will place the same to my ac't. Present my respects to Mrs. Green, your children, and other friends who inquire after me. I remain yours respectfully, LINO A. ESPOSYMINA.

TRANSLATION.

I have this day drawn in favour of Mrs. L. C. for the sum of $1000, lawful money, &c. (Dated and signed as above.)

TRANSLATION.

Don Tomas Montolla, Colonel of Infantry, and Minister, &c. of tne Republic of Mexico.

I certify by these presents that I have recognised Don Lino A. Esposymina as the lawful husband of Mrs. Lucretia Winslow; he having contracted marriage with the said lady. In witness whereof, &c. (Dated, &c. as above.)

Saturday morning, February 19th.

(Mr. M'Ilvaine finished his testimony this morning, but the adjournment at last evening was omitted to be noticed.)

Joshua Barker, esq., eighteenth witness for the prosecution, affirmed.—Mrs. Chapman called at my house in company with her brother-in-law Green, on the evening of the 19th September, about dark, and stated that she wished to have something in the form of a power of attorney drawn up to authorize her brother to transact business for her in her absence, as she was going away the next morning. At the time I was particularly engaged, and wished to postpone it till the next day; but by her importunities I was induced to do as she wished, and I drew a power of attorney, authorizing her brother to do general business, and it was executed. It was signed "Lucretia Chapman." I think I asked her if she was going away for any length of time. Her reply did not indicate that she was. She wished to impress me with the idea that it would be a temporary absence. She said her object was, to take some books to New York for sale.

Cross-examined by Mr. Brown.—I have known Mr. and Mrs. Chapman two or three years. I have been occasionally at their house. I never observed any want of harmony between them. I live about two miles off. I once saw Mina and Mrs. Chapman in a carriage together near my house—she introduced him to me as a young gentleman from Mexico.

Jonathan Thomas, nineteenth witness for prosecution, affirmed.—[This witness having been called to prove the identity of the body which was disinterred, Mr. Brown said, it was admitted that that was the body of Mr. Chapman.]

Dr. John P. Hopkinson, twentieth witness for the prosecution, sworn.—I was requested by Mr. Ross to make an examination of the body of William Chapman, and on the 21st day of September, proceeded to do so. The coffin was removed from the grave, and the lid taken off. The odour that escaped from the coffin was not remarkably offensive. Upon the first inspection of the body, the whole of the face was black and putrid, and the linen about it somewhat stained. I cut through the coverings and exposed the abdomen and part of the chest, which were of a pale white appearance. I made two incisions, and exposed the cavity of the abdomen; and was struck with its firmness and resistance. No offensive odour escaped from the abdomen. The stomach appeared externally as if inflamed within, that is, it had a somewhat dark colour. I now requested Dr. Coates to assist me in the examination. We proceeded first to examine the intestines, which we opened in many parts. We were here struck with the absence of any fluid in them. They were very slightly distended, and seemed disposed rather to become dry than to putrify. With the single exception of a small quantity of bilious-looking matter in the commencement of the large intestine, they were, I believe, totally empty. Their appearance was universally pale, without any

marks of inflammation. The whole canal was examined in this general way, with the exception of the terminating portion called the rectum, which was not examined. The liver and other solid viscera presented no unhealthy appearance; and we proceeded in the next place to remove the stomach; to accomplish which, ligatures were applied, insulating it, including a portion of the commencement of the intestines. We now remarked that in cutting the œsophagus or gullet, that it appeared inflamed. The parts removed were immediately placed in a glass jar, cleansed for the purpose, and it was closed by myself.—We reflected some time whether our examination had been extended sufficiently far; and from the appearance of the stomach externally, it seemed to us that the objects of our examination were accomplished. I carried the jar and its contents to Philadelphia, kept them constantly in my own possession, and on the following morning placed them in the hands of Dr. Mitchell for analysis.

In the presence of Dr. Mitchell, and Mr. Clemson, who was to assist in the analysis, I opened the stomach. The whole surface exposed, was covered with a dark, brownish coloured mucus. This was scraped off and carefully removed for a separate analysis, and the surface of the stomach exposed. It presented appearances of universal inflammation, at one extremity bounded by the orifice leading into the intestine, extending to the other leading into the œsophagus. I here left the matter with Dr. Mitchell for examination.

In reply to questions put by Commonwealth's counsel.—I am a practitioner of medicine andsurgery, and am engaged in lecturing on anatomy in the University of Pennsylvania. I have had very considerable experience in dissections. The peculiarities which particularly struck me (at the examination,) were, the slight degree of putrefaction in the abdominal viscera, and the limited extent of the inflammation from the stomach. To this I will add, that when the stomach was opened, a very peculiar smell, which I immediately compared to that of pickled herring, arose from it. Upon my mentioning this, all present confirmed it.—Both the stomach and intestines, when cut, showed considerable firmness of texture. I was further surprised that so little matter of any kind should be found in the canal or the stomach. I have examined many hundreds of bodies, and never observed such a smell before. I never dissected a body of a person who died by arsenic, to my knowledge.

In cases of poisoning by arsenic, the inflammation may be confined to the stomach. A person may die of arsenic, and no trace be found of it in the stomach. Cases of this kind are recorded. In cases of poisoning by arsenic, inflammation of the intestines is not an invariable symptom. In case of death from local inflammation, the part affected is most liable to putrefaction. Medical opinion is divided, in respect to arsenic being an antiseptic upon a living body. It is used for the purpose of preserving animals, being applied after death. Judging from the appearance of the body, I should attribute the death of Mr. Chapman to inflammation of the stomach. From the symptoms detailed by Drs. Phillips and Knight, and from the appearance of the body, I am disposed to attribute the death of Mr. Chapman to the action of some violent substance on the stomach. Authorities state that inflammation of the rectum, and such discharges as sometimes attend it, are symptoms of poisoning by arsenic.

Cross-examined by Messrs. Brown and M'Call.—I did not examine the rectum. By a violent substance (to which I attribute the death of Mr. Chapman) I mean a substance usually termed poison. Bile would not be considered a violent substance. It produces irritation, but I am not prepared to say that bile would produce inflammation. It is difficult to describe inflammation —it is impossible to explain it to one who is not a medical man. Irritation is the commencement of inflammation. Irritants are the causes of inflammation. Inflammation certainly exists after death, when caused by natural diseases. Congestion is very different from inflammation.

The gall bladder contained some bile; it was not opened.—The symptoms

I heard from the medical witnesses are those of cholera morbus.—Putrefaction is hastened or retarded by circumstances. Causes of retarding putrefaction may be, the dryness of the soil—the individual not having died very suddenly—and the absence of any fœcal matter in the intestinal canal. I never before examined a body after so long an interval from the decease. I never before examined a body that had been disinterred. Absorption may go on after death. Arsenic will only preserve that with which it is in immediate contact. Applied to an animal internally, after death, it may preserve the whole. The body, except the face, was in a good general state of preservation. The inside of the coffin, and the linen, were dry. The ground in which the coffin was deposited, was a mixture of clay and gravel. From having read of cases of long interment, I would say that the herring smell is not usual. I never heard or read of the herring smell peculiarly belonging to arsenic.

A violent case of the cholera morbus might present the same appearance after death as this body.—Orfila I consider as high authority. It is a general opinion, that the results of cholera morbus and arsenic on the stomach are difficult to distinguish. I should not now consider the examination I made as sufficient, although when made, I did consider it so from the appearance of the stomach. It is considered that the appearances of the body as to these subjects are fallacious. The examination of the heart is not as important as that of the stomach in examining for poison. I was not apprized that Mr. Chapman laboured under a disease of the heart. In so small a quantity of arsenic as would kill a man, I should not suppose the heart would show it. Four or five grains will destroy life.

We were not more than three-quarters of an hour in examining the body, if so much. The discharge of bloody serum spoken of does not accompany any general disease, but it may accompany a disease of the rectum. In dysentery, blood and serum are discharged. I do not know that blood is discharged in cholera morbus. I have never known a case of cholera morbus to terminate fatally, neither in my own practice, nor in that of the friends I have consulted.

By the Court.—Cholera morbus continues from a few hours to several days. I never had a patient in my care to continue beyond one or two days. Cholera morbus arises from the action of irritating substances in the stomach and bowels. The seat of the disease in this case was solely in the stomach. The inflammation might have been very violent in the rectum without showing it above. I presumed that I had the cause of death in the stomach, and therefore did not make further examination than I have detailed. From the symptoms that preceded his death, I should not have thought it at all necessary to examine for apoplexy. From the symptoms described, and from the post-mortem examination, I have no doubt but the disease that caused his death was in the stomach. I locked up the vessel that contained the stomach while in my care; I carried it myself to Dr. Mitchell. The tendency in the intestines was to dry. I never saw the dryness of the intestines in any body I ever examined before. I thought at the time, that if there was poison, I had it in the stomach. (*Adjourned till Monday morning.*)

Monday morning, February 20.

Dr. Reynell Coates, twenty-first witness for prosecution, affirmed.—I am a practitioner of medicine. I was present at the disinterment of the body, in the church-yard of All Saints, on the Bristol turnpike. When the coffin was removed from the ground, it was placed upon the ground, and opened. Dr. Hopkinson proceeded to lay the body bare, previous to examination. He opened the abdomen, and then requested my assistance in the further examination. The examination proceeded to the abdomen only. I observed previously to the body being opened, that the lid towards the head was indented, apparently by the weight of the earth, and by the action of a slight degree of

moisture. The smell of the body was not fetid. The face was the only external part which was presented to view during the examination which exhibited signs of putrefaction. It was very much putrified. The body externally had a clammy feel. When the abdomen was opened, we were surprised at the small quantity of moisture in it. I do not recollect distinctly the order in which the parts were examined, although I recollect distinctly the examination of each part. The small intestines were opened throughout a large portion of their extent by incisions made in various places. They were almost empty, although there were observed in them two or three small portions of fæcal matter, tinged with apparently healthy bile. Those portions of the intestines which came into view, exhibited no signs of disease. I think the whole extent of the small intestines was handled. One considerable incision was made—or perhaps two—into the large intestine. No signs of disease were found here, but there was present a small portion of fæces apparently tinged with healthy bile. The external appearance of the stomach induced us to think that the internal coat was in a state of inflammation. The stomach, together with a portion of intestine, was tied at each extremity and removed from the body. When the œsophagus or gullet was divided, we had the opportunity of seeing a small portion of the internal lining of the gullet close to the stomach. This part was in a very intense state of inflammation. The liver did not possess any marks of disease. The gall-bladder appeared to contain some bile, and had externally a healthy appearance. The spleen was soft, and in a condition not unusual where persons die of disease of rapid progress. The kidneys appeared to be healthy; they were not dissected. The stomach and that portion of the intestine removed with it, were placed in a clean bottle by Dr. Hopkinson—the coffin was closed, and the body reinterred. These are, I believe, all the facts I know. This examination took place in September.

I forgot to notice, that upon opening the abdomen there was a very peculiar smell. I do not know that I could liken it to any thing precisely. I never perceived it in opening any other body. I have been present at the examination of two bodies, said to have died by arsenic. Both of those cases were prior to my studying medicine. All the appearances in this body were in accordance with a certain class of cases of poisoning by arsenic.

In reply to questions put by commonwealth's counsel.—The bloody serum spoken of by Dr. Phillips, the inflammation of the gullet, and the absence of the inflammation of the intestines, as the question is general, would not be evidence of poison by arsenic. Inflammation of the rectum is one of the symptoms of poisoning by arsenic. A man may die by arsenic, and from vomiting and purging, no trace of it afterwards be found.

In the cholera morbus there are generally some marks of inflammation about the small intestines. From the nature of these there may probably be some marks in the stomach, though probably not very intense. I have heard, however, of cases of cholera, in which the inflammation of the stomach was intense. In natural death, the diseased part is considered most liable to putrefaction—I think it would always be so, unless the death were instantaneous, or nearly so. This answer is applicable to cases of death by accident. In all cases of local inflammation, the diseased part is most liable to putrefaction. Arsenic is not agreed to be an antiseptic even in a dead subject. My own opinion is, that it is an antiseptic.

From what I saw, and from the evidence of Drs. Phillips, Knight, and Hopkinson, I am of opinion that Mr. Chapman died by the action of some corrosive poison, or irritant poison, probably of an arsenical character.

The ordinary symptoms of disease occasioned by arsenic are as follow:—The first marked symptom is some degree of sickness at the stomach, accompanied by an uneasy feeling in that part; there is soon pain in the stomach, accompanied by an acrid feeling in the mouth, being the commencing symptom of inflammation about the mouth and throat; the pain in the stomach

rapidly becomes very severe, and sometimes that in the throat also; the patient complains of an intense burning sensation; this burning pain generally soon reaches its height, and continues throughout the case. Vomiting is a very common symptom. The quantity of the first discharges depends on the quantity of the contents of the stomach. When the stomach is evacuated or nearly so, if the vomiting continues, bile is generally thrown up, of a healthy character. After a certain time, if the vomiting still continues, and that time not very long, it sinks into useless and straining efforts to vomit, without bringing up any thing. In some cases of the same class with these, there is no vomiting from the first to the last. At the time when these inflammatory symptoms begin to be severe, there is generally some irritation of the small intestines also. Sometimes this irritation also becomes very severe, and a burning sensation and pain upon pressure are extended to the whole abdomen. Very early in the case the system is found in a state of collapse; all the vital energies are very much depressed. The heart and circulation appear to suffer most. The pulse is found to be small, weak, and frequent; in fatal cases it is often entirely imperceptible at the wrist. In fatal cases this collapse frequently continues until death, the system never reacting, and there never being a proper state of fever. The symptoms described as affecting the small intestines, are often wanting in the case. Sometimes all the symptoms intermit in the progress of protracted cases, and reappear upon the second attack. Cramps in the lower extremities are not unfrequently present, and are often severe. Irritation about the rectum is one of the most common symptoms. All the other mucous membranes are affected. The brain and the nerves of sensation and motion are affected sometimes, though seldom. These are the symptoms attending the most numerous cases of poisoning by arsenic.

Cross-examined by Mr. Brown.—I resided in the borough of Bristol at the time of the disinterment. I was not asked to be present by any one; I had heard of it, and considered it a privilege to be present. I had frequently heard before, that Dr. Phillips had, prior to the suspicion of poison in the case, attributed the death to cholera morbus. I think he told me so himself. The physician to whom the character of a case is communicated by another, is not, every thing else being equal, as well fitted to judge of it as the physician who saw it.

All the symptoms described by Dr. Phillips that I heard, might attend other diseases. There were none of the symptoms that would necessarily be the effect of arsenic. I should never feel authorized, by any train of symptoms to say, that a man had died by arsenic. I would not feel authorized to say so, from any external appearance of the body, nor from any consistency of it. Beyond these, I observed the external appearance of the stomach, the inflammation of the gullet, and the absence of inflammation in the small intestines. I have both heard and read, and what is better, have observed conclusions proved to be correct, drawn from the external appearance of the stomach. I do not regard such conclusions as absolutely positive, but only very probable.

Three coats are commonly named for the stomach, the mucous, the nervous, and the muscular, which is covered by the peritoneum. I could certainly know better the state of the stomach by seeing it through the peritoneum, than I could know the lining of a coat from seeing the cloth outside. The inferences from the appearances in such case could be drawn by a practised eye alone; but such might be drawn. An opinion drawn from such appearances might be ill founded. The colour of the peritoneum was what I should call a dull ashy grayness, not uniform in all its parts, but approaching to a mottled appearance. I have examined stomachs longer after death than this—none, however, which were not subjected to a peculiar preparation. I have examined stomachs in various periods of decay, at shorter periods after death. I do not think that I ever before examined a

stomach taken from a body which had so long been interred. I have been contented to form as strong an opinion as I now have from the external appearance of the stomach. I incline to the opinion that arsenic would be a preservative of the body. A burial shortly after death would be calculated to preserve the body. The character of the soil, material of the coffin, and absence of fluids from the body would be means of preservation. Arsenic would not be as apt to preserve the face as any other part, when applied at a distance from it. The preservative effects upon the abdomen would be stronger than upon the face in this case, because the abdomen was nearer the spot to which the arsenic was applied. If there were arsenic enough in the abdomen to preserve, there would be enough to inflame it. One of the organs in the abdomen, which is considered a part of it, was inflamed. The parts were all in a good state of preservation. That which was inflamed was in no better preservation than the rest. There is in all corpses reasons for the face decaying faster than other parts: it is uncovered—and in this case there was moisture about it.

It would be impossible to answer the question by what process death is produced by arsenic. In most cases, death is produced in consequence of inflammation caused by it.

I have never formed an opinion whether arsenic destroys by absorption or not. I think it probable that it does enter the blood. I think arsenic would preserve parts with which it does not come into contact, and to which it could not be conveyed by any obvious process. I do not know by what principle it would be that it would do so. I think not by absorption in all cases; I think the twentieth part of a grain is the smallest quantity that has been detected upon analysis. I have not heard on the best authority that the three hundredth part of a grain has been detected. A stomach, inflamed as I suppose that (of Mr. Chapman's) to have been, might be dissolved, and no traces of arsenic be discovered. I should suppose that in a very large majority of such cases, arsenic would be found. I cannot distinguish between a high state of inflammation produced by natural causes, and a high state of inflammation produced by poison. Such a state of the intestines as I observed might be produced by natural causes.

I infer there was poison in this case from the joint evidence of all the circumstances. All the supposed proofs are liable to exception. My conclusions in this case were drawn from all the symptoms, and all the morbid appearances; which, taken together, are sufficient, in my mind, to show the presence of an irritant poison, which can be proved by any train of circumstances whatever, short of chemical proof, which I have not heard. I have not said, at any time, that I was physically sure that this man died of an irritant poison; but that is my opinion, founded upon the same evidence which determines us in all medical researches. Where life is dependent upon the result, I should consider the evidence I have, sufficient to say, that the man died by poison; that is, the evidence I had was sufficient proof to determine me in my medical practice. From what I saw of the body alone, I should not say what was the cause of his death. We did not examine the heart. The brain would not be likely to show the effects of poison by arsenic. I should suppose the examination of the body took up more than an hour. The circumstances that appear from what Dr. Hopkinson has testified, corroborate my conclusions.

It is within possibility, that all the symptoms and appearances that have been described, all the examinations that have been made and described, and all that I myself saw, might be accounted for on the supposition that the man died a natural death.

I do not think it possible that any one can be certain that a man died by poison, unless the poison be found in the body. The evidence I have of the man having died by poison, is as strong as it could be, without the arsenic being found there.

Although the appearances and symptoms could be accounted for by natural causes, the thing is so exceedingly improbable, that I could not take it into view in coming to a medical conclusion, which, however, can never be positive. Such a course of circumstances I never saw, and never heard described, as attendant upon cholera morbus, existed in this case. The cholera has fallen a good deal under my own observarion, in both its forms (the common cholera morbus and the epidemic Asiatic cholera), and I have never seen it run such a course, and be attended after death by such morbid appearances; nor have I seen such morbid appearances described as attending it after death.

I have always been convinced that medical testimony is an insufficient ground, independent of any chemical investigation, to warrant me in determining a case of life and death, were I called upon to determine the fact legally. In point of *fact*, it is not to be relied upon. (*Adjourned.*)

Monday afternoon.

Dr. John K. Mitchell, twenty-second witness for prosecution, sworn.—I am a practitioner of medicine and lecturer on chemistry, and one of the attending physicians of the Pennsylvania hospital. On the 22d September, 1831, Dr. Hopkinson brought to my laboratory in Philadelphia, a jar, containing a stomach, and about six inches of the intestine nearest the stomach, called the *duodenum*, which he told me was the stomach of Mr. Chapman, which he had disinterred somewhere on the Bristol road. In his, and Mr. Clemson's presence, an examination of this stomach and intestine was made. The exterior appearance of the stomach differed very much from that of the duodenum. The duodenum was of a nearly white colour, such as a healthy duodenum appears. The stomach was much darker, and had a reddish tint: it might be said to be a dark gray, tinged with red. The large vessels of the stomach could be traced by a stronger red colour, but of the same description of colour. The smell of the whole was very peculiar, such as I had never before perceived. Upon consultation, we came to the conclusion, that it most resembled the smell of a dried Scotch herring. We proceeded then to open the stomach, which was tied at its upper orifice, a string being applied likewise to the other end of the intestine, so as to include the contents of the stomach. Upon laying open the stomach and intestine, we found them empty; there being nothing in them but a thin layer of matter, which was attached to the sides of the stomach. Through this adhesive mucus, which lined the stomach, we could, in many places, perceive the colour of the lining-coat, or the internal membrane of the stomach, which, wherever it showed itself, appeared of a red colour. In some places the course of larger vessels than those that give the general colour could be traced by a more distinct redness. It appeared as if the blood had spread from the sides of these vessels, the deepest colour being in the middle line, gradually fading until the colour became that of the walls of the stomach generally. Nothing appeared remarkable in the duodenum except the pale straw yellow colour of its internal surfaces.

As Mr. Chapman had been said to be poisoned by arsenic, and as the most usual arsenical preparation used in poisoning is not very soluble in water, I passed my fingers over the whole internal lining, feeling the mucus which lined it for the purpose of ascertaining if any thing gritty could there be found. In this manner, and by examination with the eye, we failed to discover any solid body or particle, in any part of the stomach, or attached duodenum. As the stomach contained nothing, and as no particles of any sort could be discovered in it, the detection of arsenic, or of any other poison presented a probable difficulty. It was therefore thought best to scrape off from the internal walls of the stomach the viscid mucus with which it was lined; to subject that to one method of analysis, and the solid stomach and

intestine to another. In the attempt to remove the mucus, which was done with a smooth-edged bone spoon, it was found in some places so much attached as to bring with it the internal coat of the stomach, which appeared in some places to have been loosened from its cellular attachments to the muscular coat, by a very thin plate of what appeared to be effused blood. A little water was passed over the inner surface of the stomach after scraping for the purpose of the better observing its condition; that water was added to the mucus which had been scraped off. Then the stomach appeared to be less regularly red than might have been inferred from the examination before the mucus was removed. There then appeared many red spots, especially around the first opening of the stomach, next the gullet, and in various parts of the stomach could be perceived dark brown patches. None of these seemed to be the effect of putrefaction; for there was no smell indicative of that process. I do not recollect any thing farther in the appearance of the stomach and duodenum worthy of notice.

To the mucus and water already mentioned, some more clean water was added, and the whole boiled in a clean Florence flask for a considerable time; every thing thus treated was then thrown upon a filter. After filtration there was left on the filter a dark brown substance, which was thrown into nitric acid (filter and all), in which the stomach and intestine were undergoing solution. The liquid which had been filtered was transparent, with a very faint amber yellow colour. Very small portions of this liquid, taken separately, were subjected to liquid tests. Sulphate of copper in solution changed the colour of that portion to which it was applied to an undecided grass green. Nitrate of silver in solution gave a brownish yellow flocculent precipitate, which grew darker, and soon lost its yellowishness. Sulphuretted hydrogen in its gaseous state was passed through another portion, and deepened its yellow tint just perceptibly. Nearly the whole of the liquid was then subjected to the action of sulphuretted hydrogen, thrown into a capsule, heated until its yellowness became distinctly marked, and its transparency was gone. The whole liquid was then thrown upon a filter, and, from necessity, left for several hours. When it was again looked at, a transparent liquid was found in the vessel beneath the filter, and on the filter was discoverable a yellow substance which could not be separated from it, being in too small a quantity and the paper not being smooth. As the quantity was too small to hope to look for any decided result from heating it alone, it was thrown (filter and all) into the vessel in which the stomach and intestine were in a state of solution. Every thing then which might be supposed to contain poison, remained to be looked for in the nitric acid solution. That was evaporated nearly to dryness, heated again by nitric acid, and so on, until it was supposed that the animal matter was destroyed. Water was added to the residue, and boiled on it until it was supposed that every thing soluble had been taken up. That liquid was filtered, evaporated to dryness (I have on this point rather an indistinct recollection), and treated with lime water. This matter was evaporated to dryness after using the lime water, and it was presumable that if any arsenic were present, it existed in the dried mass as a salt called arseniate of lime. This was divided into three portions, each placed in the closed end of a glass tube, open at the other end. The sealed end of a tube was then placed over the flame of a spirit lamp (the dried mass was mixed with powdered charcoal, before being placed in the tubes), with a view to sublime metallic arsenic, if any there should be. The tube which was held by Mr. Clemson, became covered on its internal surface for some distance above the material employed in the tube, with black looking matter, which an unpractised eye might readily mistake for a metal; for although black, it was glistening. In conducting this experiment, and after these appearances had been observed, the sealed end cracked and opened under the action of the spirit lamp; when Mr. Clemson, who was holding it, turned round and said, "is any one subliming arsenic in the room?" The reply was

no; and he then called me to examine what the odour of the tube was, and I distinctly recognised what I believed to be the smell of the fumes of arsenic. The tube was subsequently heated where the shining black matter had lodged, and as the tube was open at both ends, a current of air was passing through it, and the arsenical smell was perceptible at the upper end. The other tubes were subsequently at different times treated in the same manner; and, with the exception of the breaking, presented similar results; a black matter covering the arsenical ring, if any was there. There was no evidence to the eye that there was any arsenic there. This is a succinct history of the proceedings in my laboratory for the detection of arsenic.

Previously to entering upon the search for arsenic, some tests were used for the purpose of ascertaining whether it would be proper to search for any other poison. Corrosive sublimate and tartar emetic were thus looked for, but no indication of their presence, however slight, could be discovered. That was all that was done with Mr. Chapman's stomach as far as I recollect.

Examined by the counsel for the commonwealth.—As a chemist, knowing nothing more of the case than one who is not a physician would know, I would say that the tests used upon the liquid obtained by boiling the mucus of the stomach gave no conclusive evidence of the presence of any arsenical matter. They, I think, ought not to be regarded, being negative. The arsenical odour is generally esteemed, by high authority on this subject, a very imperfect test of the presence of arsenic; but as the objections to this test are several, and as it was important for public justice that this case should be strictly examined, I tested, one by one, experimentally, the objections. The first alleges that the mixture of animal matter so covers, when it is volatilized along with arsenic, the odour of that metal, that it cannot be perceived. That objection does not apply in this case, as it was perceived. Another objection is founded upon the alleged similar odour of certain substances, phosphorus and its compounds; zinc, antimony, and onions, garlic, and things of that kind. Garlic or onions could not, by any possibility, have been present in the matter which was sublimed. Antimony, zinc, and the phosphates, mixed with animal matter and charcoal, were tested in similar tubes under like circumstances. These experiments were repeated again and again, in the absence of Mr. Clemson, without the production of the arsenical odour, or any thing that I could mistake for it, unless I actually placed arsenic in the tube. Supposing myself liable to deception, because I knew what was actually in the tubes, I prepared a set of them containing these articles (ph. of soda, kermes mineral, and some granulated zinc); I placed them, while under treatment by the spirit lamp, and in succession, under the nose of Mr. Clemson, who was ignorant of their contents. Among these tubes one was prepared with arsenic in a very small quantity. It was only when the tube containing the arsenic was heated and presented to him that he said decidedly and promptly, "That is arsenic:" and did not hesitate about the others, that there was no arsenic there.

Desirous to pursue an investigation after the partial failure of this one, I placed in a stomach, which was brought to me from the alms-house, a small quantity of arsenite of potash in solution;* called Fowler's solution, intending to analyze it at my leisure, for the purpose of seeing how small a quantity I could separate. Other duties prevented me from attending to the analysis, and it (the stomach) remained in my laboratory for two or three months. It did not putrefy in that time, and at the end of that period it had precisely the smell, as far as I could recollect, of the stomach of Mr. Chapman. A smell which was new to me; and which I observed only in those two stomachs. After all these investigations, I still feel bound by the high authority of those writers who have expressed an opinion on the subject, to

* Two drachms.

say, that the chemical proofs of the presence of arsenic, though amounting to a strong presumption, are not conclusive evidence of its presence.

I am now, sir, to state my opinion upon all the proofs. For these reasons: the suddenness and the violence of the attack, in a neighbourhood subject at that time to no epidemic, in a man of temperate and cautious habits, attended with the following symptoms: sickness and vomiting, a burning pain in the region of the stomach, described as being "like fire;" attended with extraordinary reduction of strength, and very unusual coldness of the extremities for a very considerable period before death, the absence of delirium, the particular character of pulse described, the parched state of the mouth, the unusual livid spots about the face, the preternatural rigidity of the body after death, absence of swelling of the belly, the calm and nearly quiet death after so much suffering, the intellectual faculties remaining perfect nearly till death (there being no evidence that he had them not till death), the period at which death took place, are the symptoms upon which I partly found my opinion. I found no part of that opinion upon the state of the body when taken out of the ground; nor can I with a single comparative fact, with reference to the smell, permit that to form any part of the foundation of my opinion.

The circumstances upon which I in part found my opinion, derived from the examination of the dead body, are those peculiarities in the morbid state of the stomach which I have before noticed. The singular exemption of the intestines from disease, except the rectum, from which there was discharged matter significant of disease in that organ, which, had it passed through the intestines, would have left traces of its progress, being coloured; added to these, the hitherto inconclusive chemical proofs, acquire increased strength; and I am unable, after a careful and considerate view of the whole ground, to resist the conclusion that William Chapman died because of the presence of arsenic in his stomach. That is all I have to say. I think *Christison* is considered the best English authority on poisons. *Orfila*, the best French authority.

Cross-examined by Mr. Brown.—I consider Berzelius as the first *chemical* authority in the world. I do not think that the *whole* of the symptoms demonstrate the presence of poison; and of course that includes the admission that any one of them does not. The bloody serum issuing per anum might have proceeded from a variety of diseases. The livid spots also, they are very usual when malignant fevers prevail; they characterize the spotted fever. After a considerable time, the rigidity of the body is of no unfrequent occurrence. I think it very unusual for a body to become stiff in one hour's time. It is usual for the body to become stiffer gradually. Ceteris paribus, ocular observation of the symptoms is the best test for forming an opinion. A physician might feel himself authorized to pass an opinion upon the cause of a man's death, upon hearing his symptoms, even though the attending physician being competent could not be able to do so, because the person to whom he narrated them might have peculiar advantages for observation. Upon this are founded most medical consultations. In reciting symptoms, *facts* are stated; the opinion founded upon them is an act of judgment. Omissions of symptoms in this particular case could not alter the opinion; because the ground of the case, as regards the principles, has been travelled over. Whether it (the opinion) would depend upon the degree of reduction in intensity of symptoms, I hardly know how to answer. Cholera morbus is a vomiting and purging. Sometimes in indigestion there is violent vomiting; in cases of dysentery there is rarely vomiting; there are occasionally discharges of bloody serum. There is every variety of the state of the pulse in fatal cases of dysentery.

The violent burning "like fire" I never saw presented in the cholera of our own country. In that disease the intestines are found sometimes empty, and sometimes full. I never saw a case in which a patient died from inanition, in cholera. In epidemic cholera of E. I. the symptoms are represented to be

like those occasioned by irritant poisons. It is said, that irritant poisons are among the causes of cholera. I attach no importance to the preservation of the body. To judge of the degree of importance, &c., it would be necessary to examine bodies from that burial ground three months after interment.

The exemption from inflammation of the lower intestines, I do consider important, not as standing by itself, but in connexion with the disease of the stomach and rectum. I believe that there is evidence of the disease of the rectum—the bloody matter which could not have come from the intestines. There are bloody discharges from piles. I have heard no evidence of cholera being rife in that neighbourhood. If there were, I think it would have no influence upon my opinion, unless they were malignant cases. Fowler's solution is administered as a medicine in some cases. It is arsenite of potash in solution. I believe very few physicians administer it now in intermittents. If the medicine were poisonous, those symptoms would depend upon them. I think calomel could not have produced them. I have seen Mr. Chapman once, several years ago. When the disease is not very violent, the constitution of the individual modifies it very much. Diseases of a very acute character, especially when epidemic, seem to be under no sort of influence, derived from the constitution of the individual. Age and sex sometimes make a difference. Smear-case and pork, eaten at night heartily, if the person be not accustomed to them, would be very sure to hurt him.

For my friend Dr. Hopkinson, I must make this apology: this was his first case; he was, without preparation, taken up to the place of interment, and made an examination which gives us the greater part of the information which could be probably elicited for this case, by those means. He has said himself, that it was an inadequate examination. The examination of the rectum was very important—of the heart not very material—of the brain less important—nor the internal examination of the gall bladder.

I could have made a probable conjecture of the state of inflammation of the stomach by external inspection, but no more. I do not think the one-hundredth part of four grains could be separated from the body. I could only, without detecting the metal, form a moderate presumption of its presence, speaking from the authorities (sulphuretted hydrogen, reiterated). When the quantity is very small indeed, compared to the amount of liquid, and that liquid contains also animal matter, it sensibly affects the powers of the precipitate, (sulph. hyd.) and it is often necessary to evaporate the liquid to a certain degree to obtain a precipitate, even when arsenic is present. As far as the precipitate was concerned, the test was characteristic enough of arsenic. It retained its colour until it stained the filter yellow. If there were arsenic enough to abide that test, I should expect to find enough to abide the final and metallic test.

I applied the test of nit. silver. It threw down a precipitate not characteristic. So of sulph. copper. The true characteristic colour of arsenite of copper is a grass green. The actual precipitate was an imperfect grass green. I stated that I considered the liquid tests used in this case as negative and fallacious. I did not, I believe, reduce the arsenic to metal. Christison says, the alliaceous odour is not to be depended on—I do not recollect his saying that it should be entirely disregarded.

The symptoms at the death-bed are not alone conclusive. The state of the body was not alone conclusive. I did not obtain the metal—I come to the conclusion that Wm. Chapman came to his death from the *amount* of moral probabilities—any one proof not being sufficient. I do not think the fact of my not finding the metal makes against the symptoms. I did not try the sulph. copper with ginger. No fresh or unaltered animal or vegetable matter could have remained in the solution by nitric acid when subjected to the attempt at reduction. I never opened a body so long after interment; nor one supposed to have died of arsenic: never applied those tests to a stomach which contained arsenic before death. The stomach from the alms-house

abided the liquid tests very much as did this stomach. It was not dissolved. I did not treat it with nitric acid—merely boiled it and tried it with other tests. There may have been arsenic enough in the stomach antecedent to death to cause death, and no particle be found after death. Christison says that there might arise a combination of symptoms which *alone* could show the presence of arsenic. That, however, I consider a conjecture of his, and do not give it any weight. In skilful hands a grain of arsenic would *certainly* be detected in the stomach. I did not apply the galvanic pile. The individual whose stomach was sent to me had not been buried. The stomach was not *prepared*—merely opened and washed. I do not impute its preservation to arsenic.

By the Court.—It would have more clearly demonstrated the diseased state of the rectum to have examined it—and strengthened the appearance of the action of arsenic. Arsenic was not as likely to be there as in the stomach. Cannot say what quantity would probably have killed Mr. Chapman. Mr. Clemson has been for several years in the laboratory of the School of Mines in Paris—the best analytic school in the world—and spent some time in the laboratory of Robiquet, whose business it is to manufacture the most delicate medical preparations. I have every reason to believe that he is highly competent to such an investigation as this, as far only as chemistry is concerned—he is not a physician. I believe him to be a most excellent analytical chemist from my own observation.

By Mr. Brown.—I think the sense of smelling is the most fallacious of all the senses.

By Mr. Ross.—I do not think that in my laboratory I could be easily deceived in the arsenical smell.

(*Closed at fifteen minutes before 7 o'clock, P. M.; duration of the examination three hours and a half.*)

Tuesday morning, February 21.

Thomas G. Clemson, Esq. twenty-third witness for prosecution, sworn.—Before 1826, I was engaged in acquisition of chemical information in the United States. In 1826 I went to Europe, and in the fall of that year entered the practical laboratory of Mr. Gaultier de Clowbry; at the same time I attended the lectures of Thenard, Gay-Lussac, and Du Long, as delivered at the Sorbonne, Royal College of France. In 1827 I entered the practical laboratory of Laugier and Filier—and afterwards the practical laboratory of Robiquet; after which I gained admittance to the Royal School of Mines. I was then examined at the mint, and received my diploma as assayer. It is dated June, 1831. I then came to the United States, where I arrived in the fore part of September, 1831.

On the 22d September, 1831, I received a note from Dr. Hopkinson, desiring me to assist him in the examination of a stomach supposed to contain poison. On the same day the stomach was opened in the laboratory of Dr. Mitchell, in the presence of Dr. Mitchell, Dr. Hopkinson, and myself. The interior of the stomach was covered by a brown semi-fluid substance, to the amount of a table-spoonful. This being taken off, the stomach had rather a brownish hue; certain parts looked redder than others, and the blood-vessels might be traced by a stronger expression of brown. This semi-fluid substance was washed, and the liquid coming from the insoluble part was tested. The first test used was the ammoniacal nitrate of silver, which amounted to nothing. The other tests, such as the ammoniacal sulphate of copper, and sulphuretted hydrogen, gave no evidence of arsenic. I had little confidence in them, knowing there was a presence of animal matter. The stomach and a small portion of the duodenum, and the insoluble part of the semi-fluid were all treated with nitric acid; until we concluded the animal matter was entirely destroyed. Let it suffice to say, that we obtained the arsenic which existed there in the liquor, in the state of arsenical acid in combination with lime. The lime was added as lime-water—it was arseniate of lime. To the arse-

niate of lime we added a quantity of carbon, sufficient to decompose the entire quantity of the arsenical acid combined with the lime. This was put into two tubes, and a small portion which remained was put into a third. Heat was applied to the first tube, and carried to a red heat. We observed something that might be called a ring. I do not believe it was an arsenical ring, for that part of the tube which contained this ring was taken off and digested in nitric acid; and if it had been arsenic, we would have discovered it by the tests. The matter contained in the bottom of the tube was so exposed to the lamp, as that the carbon of the lamp should act upon that portion of the arseniate of lime which had not been in contact with the carbon in powder. As I expected, we obtained an odour of arsenic. The second tube I exposed to the heat of the spirit lamp. I was expecting a ring, and the odour of arsenic struck me. I looked round, and asked if any one was burning arsenic? On examination I found that the end of the tube was broken, and the odour of arsenic still given out. I called Dr. Hopkinson and Dr. Mitchell and the servant to smell this odour, and they all agreed that it had the odour of arsenic. I know of no substance which, in my opinion, has the same odour, or an odour which resembles that of arsenic. It is stated that there are certain vegetable substances which give off an odour resembling that of arsenic; but here there were no vegetable substances. Phosphuretted hydrogen is also said to have the odour—I have manipulated it, and have never found the odour. I account for the smell by the action of the carbon in vapour from the lamp, coming in contact with the arseniate of lime not already decomposed. If in the examination of any mineral substance, I had discovered the same results, I should have said there were traces of arsenic. I believe that was the odour of arsenic that I smelled.

Cross-examined by Mr. Brown.—I should build upon my examination, inasmuch as I say I believe it was the odour of arsenic. I was not made acquainted with the circumstances attending the death of the individual whose stomach I was examining. I think I was informed that the examination was made with reference to a suspicion of poisoning by arsenic. At the opening of the stomach, I do not recollect that any person was present but those I have named. During the course of the examination, persons occasionally dropped in. Dr. Hare was there. I do not recollect seeing Dr. Togno there. The stomach had rather a dark brown hue; the course of the blood-vessels might be traced. I never examined a stomach before, with reference to the suspicion of poison. I have been present when Mr. Robiquet manipulated with a view to the detection of poison. I never was present at an examination with a view to detect arsenic. The first test used, the ammoniacal nitrate of silver, showed no characteristic precipitate. I look upon this test as vague, as there was animal matter; and unless there had been a great quantity of arsenic, it could not have been discovered. The second test showed no characteristic precipitate. The colour of the water was grass-greenish. I know not whether onions or ginger will give such a green.

Authority goes to say that other substances produce an odour so like that of arsenic, that one may be deceived. A man can smell the shadow of a shade of arsenic. I cannot say what quantity will give the odour. I cannot say whether arsenic can always be detected in a metallic state, when its presence may be ascertained by its odour, although we have the means of detecting the smallest visible or tangible particles of arsenic. The fumes which emit the smell, produce the metal. The fumes are the metal in a gaseous form. The same process might produce other metal than arsenic. It is very possible there might have been mercury in the stomach. In that case we would have had a nitrate of mercury. There is something in the eye, as distinguishing between the metals produced. Where the liquid tests fail, and a metal is produced, it is necessary to apply tests to ascertain what the metal is. There are characteristics which the eye will detect so as to distinguish metals, arsenic in particular. In the tube in which the ring was formed, we

sawed off the glass containing that portion of the volatilized matter. It was digested in nitric acid, and the proper test used, and we discovered no arsenic.

(Mr. Brown here showed a small glass tube to the witness.)

There is mercury in the bottom of that tube. The tube contains a metallic ring of arsenic. I take the lighter ring to be such. This may be proved beyond doubt, by the correct application of heat to that part of the tube containing the ring. Zinc would be reduced by the same process we used.

By the Court.—When I have found arsenic by the blow-pipe, I have never been deceived in detecting it afterwards. When there is not arsenic sufficient to be weighed, we apply the term "traces of arsenic," in the description of the analysis of a mineral. It is the metallic substance that gives the odour.

Orfila is the best authority on poisons. Christison I do not consider as high chemical authority as Berzelius, Gay-Lussac, or Berthier.

Dr. Mitchell called again by Mr. Brown.—The tube shown to Mr. Clemson was prepared by myself. It does not contain any mercury.*

Israel Deacon, twenty-fourth witness for the prosecution, sworn.—I am keeper of the penitentiary for the city and county of Philadelphia. I knew the prisoner, Mina, by the name of Celestine Armentarius. The first knowledge I had of him was on the 17th March, 1830. He came into my custody, convicted of three charges of larceny; he remained until 9th May, 1831, when he was discharged by pardon. He was discharged between nine and ten o'clock, A. M. I was in the habit of seeing him almost daily. I never knew him to have a fit, nor ever heard of his having a fit.

Cross-examined by Mr. Brown.—I am principal keeper. I do not remember Mina's having been cupped in prison, nor do I remember the marks, when he came out. If a prisoner is sick, or placed in the hospital, he is always reported to me. If he had had a convulsion fit, it would have been reported to me. He was employed in winding bobbins in the weaving department.

Ellen Shaw called again for prosecution.—I don't know much at present; there was a dispute arose about the carriage, between Mr. and Mrs. Chapman; she wanted to go out. She said, she wished to *** he was gone, she was tired of him. She said she was mistress of her own house, and would do as she pleased. He said he could not spare the horse, for he wanted to break up the ground to put his potatoes in. She replied, she wanted the horse, and she must have him. She got the carriage, and she and Lino went. This was about three weeks before his death. I have heard Mr. Chapman say to Mrs. Chapman he was very uneasy about Lino's being there; it was disturbing his peace. Mrs. Chapman replied that Lino should not go. Lino and myself were present, with Mr. and Mrs. Chapman.

Mr. Ross here offered to prove, by declarations of Mr. Chapman made in the absence of Mina and Mrs. Chapman, the dislike of Mr. Chapman towards Mina, and that he was the last person to whom he (Mr. Chapman) would have confided the care of his family.

Mr. Brown objected, upon the general principle, that declarations in the absence of the interested party are not evidence; and upon the ground that the expressions of Mr. Chapman which they now offered to rebut, were brought out in their own examination.

Mr. Ross offered the testimony to show that the inference which might be drawn from the letter to Watkinson, was not true. It was also offered to falsify the statements of Mrs. Chapman, made to witnesses examined for the prosecution.

* The impression of Mr. Clemson as to this matter, in which he appears to have been mistaken, was given upon a mere momentary inspection of the tube. Dr. Mitchell, in a letter to the compiler, adverting to this subject, says: "The mistake was one more important in appearance than reality, for, since my return, I have been able to make rings in tubes which contain no arsenic, which the advocates of crusts' would unhesitatingly declare upon oath to be arsenical." Mr. Clemson made no mistake, however, as to the *ring* it was in reference to the globules in the *bottom of the tube*.

The court overruled the objection. The declaration of Mr. Chapman, so far as he approved or disapproved the conduct of Mina at his house, would be evidence, to show the state of feeling between the parties.

Ellen Shaw continued.—At the time that Mina and Mrs. Chapman were absent three days, Mr. Chapman did nothing but run about the house, like a crazy man. He cried. He said he did not know what to make of it. I told him, maybe they had gone to Mexico, for they had talked about it. He said he should not be a bit surprised if they did run off together, the way they were going on. He said he wished the ship had sunk that he came over in.

Two or three weeks before I left, I heard Mrs. Chapman say she expected to go to Mexico in a few weeks.

Their bed (Mr. and Mrs. C.'s) was sometimes made by Mary, and sometimes by Mr. Chapman. Mrs. Chapman did not attend to it herself, because she was engaged with Lino. Sometimes he neglected to make it, or did not get it done when she wanted him to. She used to tell him if he didn't get it done, he should have no breakfast.

Mina had been two or three weeks at the house before he had any of his spells. He had no birds.

Cross-examined by Mr. Brown.—I have not talked much to the witnesses since I was examined—a little through each other. I told Mr. Ross a few things at the boarding-house last evening. I thought of some things which I did not think of when here before. It was my request to be brought forward now. If there was any thing I knew, I told him I was willing to come. None of the evidence has been read to me. Ann Bantom and Mary Palethorpe were present last evening.

It was about two or three weeks before I left, that I heard Mrs. Chapman say she was going to Mexico. It was up-stairs in her bed-room. She said she would have thousands then, where she had not dollars now. I told her I did not think she would. I told her, Mina did not look, to me, like a man who had much. She introduced the conversation—she said he was a dear young man, and she was going to take him for her own son. I told her it was well she had not my eyes to look through, or she would not think so. She replied nothing. I did not hear of anybody but him and her that was to go to Mexico. The children were not mentioned. I told this to Mr. Chapman, because they staid so long. It was on Sunday they went, and not Monday. I heard Mina and Mrs. Chapman talking about it, a week before I left them. It was a couple of weeks before I left them, that they went away for three days. I heard them talk of it before they went to town, pretty soon after he came there. I have often heard her talk of it, and have heard him too say he was going to Mexico. I never heard them say exactly they were going to Mexico together. I think I heard Mr. and Mrs. Chapman say something about sending William to Mexico. I did not hear how or with whom he was to go. I heard Mrs. Chapman talk about it, but not Mr. Chapman. I cannot tell whether this was before or after the conversation up-stairs. I believe I have heard something about Mina's ordering a carriage, and of Mr. and Mrs. Chapman riding in it. I heard Mina tell Mrs. Chapman, that he would have the high fence (around the house) torn down, and have it fixed up in the Spanish fashion.

Mr. Chapman used to help Mary make the bed—putting the clothes off and on. This is what I mean by his making the bed. I have seen him do it a great many times. Mrs. Chapman used to ask if he had made the bed, and would say he should have no breakfast till it was made. He would go and make it, as he was afraid of her. I have seen him making the bed while they were at breakfast. I never told Mrs. Chapman what Mr. Chapman said, while she was gone. Mina had a dark long coat on when he came there—if I don't mistake, it was black. He had an old light roundabout. I think his jacket was dark.

Re-examined.—I left because things went on so bad I did not wish to stay.

I do not know that Mrs. Chapman requested her husband to dismiss me. They had picked up a worthless old woman on the turnpike, and they thought she would do. I went away of my own accord—they told me of no reason. My children did not like their proceedings—they said it was too hard a place for me. When they saw her capers with Lino, they told me I must leave. I had been talking about leaving, to go down to my brother's, and I wish I had, and then I shouldn't have been obliged to come to this plaguy trial.

Tuesday afternoon.

Edwin B. Fanning called again.

Mr. M'Call objected to the re-examination of this witness, because he was one of those who were excluded from the court-room by an order of court, and therefore could not be heard again.* 3 *Starkie*, 1733.

Mr. Ross replied, that the witness now offered was not embraced within the rule respecting the witnesses who should be excluded from the room. But however this might be, he said that he had been unable to find the principle, which is laid down in the note to Starkie, in any other authority, which he had consulted. He referred the Court to *Fost. C. L.* 47. 1 *Chit. Crim. L.* 618. *Russell*, 624, where the power of the court to exclude witnesses upon the application of either party, is fully recognised, but not a word said as to their incompetency to testify in case they infringe the order of the court. He contended that the pernicious consequences of such a doctrine could scarcely be foreseen. It never could be in the contemplation of the law that either the commonwealth or the defendant should be deprived of the evidence of an important witness by the mere neglect or disobedience of such witness. We may, said Mr. Ross, order our witnesses from the court-room, but if they choose to violate the order, how can it be prevented—unless, indeed, we lock them up. Suppose that the witness now called was offered on the part of the prisoner, and that the proof of her innocence depended entirely upon his testimony; would this court, under such circumstances, decide that, because the witness might have been present a few minutes during the progress of the trial, he has therefore become incompetent and cannot be heard. A principle so repugnant to justice and humanity never could be the law of the land. The law in this respect makes no difference between the rights of the commonwealth and those of the prisoner. If then it would permit such a witness to be heard for the prisoner, it would also permit a witness similarly situated to be examined on the part of the prosecution. I am willing to admit, that the violation of the order of the court may affect his credit, but I deny that it can affect his competency.

Mr. Brown said, the doctrine for which his colleague and himself contended, was settled; and that the penalty must fall upon the commonwealth's counsel, whose duty it was to see that he be excluded.

The court overruled the objection, on the ground that Fanning was not included in the terms of the rule.

Edwin B. Fanning.—As I before stated, Mr. Chapman requested me to tarry with him, and take care of him through that night, being then a little after dark; "for," said he, "I am very sick—when Don Lino is sick, all attention must be paid to him, but now I am sick, I am deserted—I am left." I tarried with him that night, till 10 or 11 o'clock, when Mrs. Chapman said to me, "I will take care of him." She thanked me for my attention to him.

* The Reporter has omitted to notice, that on Tuesday evening of the first week of the sessions, all the witnesses were, upon motion of counsel, excluded from the court-room during the progress of the trial, except when called up to be examined. The rule was afterwards altered, so as to include in its terms only those witnesses who resided in the neighbourhood of Andalusia.

Mr. Ross has furnished a short sketch of his argument to this point. The remarks of the opposite counsel were very brief, and the Reporter cannot now well procure them.

Some time previous to this, Mrs. Chapman and Mina had gone to Philadelphia, I think on a Sunday morning, and were expected by Mr. C. to return the same day at evening, or on the following morning. They did not return until, I think, the third day after, in the evening. The second day after they went, in the evening, Mr. Chapman became very uneasy in consequence of their not having returned. He said he was not satisfied with such conduct. "I believe," said he, "that this Mina is an impostor; a roguish fellow;—I would not (said he) bear such troubles for a large sum of money. (I don't recollect the sum.) I had rather be poor than to have my peace so disturbed. In all probability (said he) their object is to tarry until the family has retired, and I would like to know whether they would be guilty of improper conduct after they do return; for," said he, "if I know of their going together to Mina's lodging-room, I will be in there, and by *** I'll kill him," or "take his life." I do not speak the words exactly—it was to that effect. "I would not have my peace so disturbed with this fellow," said he, "and when he does return, he shall leave my house—I will have him here no longer." Mr. Chapman retired to his lodging-room about 10 or 11 o'clock, earnestly requesting me to sit up until they returned; and in case they should return, and go together into Mina's lodging-room, to inform him immediately. I remained up probably an hour. They did not come home, and I then retired.

Cross-examined by Mr. Brown.—This was in the month of June. I can state nothing accurately as to dates. I had been there about two or three weeks before this. I think no one was present at this conversation. I was with him a considerable part of the evening. I think this was not a week after Mrs. Chapman accompanied Ellen Shaw to Wright's. I had no acquaintance with Mr. Chapman before I came to that house. The first time I was there was in April. Mr. Chapman said to me, that his friends were on the other side of the Atlantic—that his wife's affections were gone from him; he said he did not want to go to his neighbours with this trouble—he confided in me as his friend, to whom he might communicate his sufferings. Mr. Bishop, Ellen Shaw, and the children were about the house. I think William was with his mother. I don't know but Mr. Ash was with them also—I think I saw them start.

The first time I saw Mina, I think he had on a black suit—this was within one or two days after he came to Mr. Chapman's. He had black pantaloons, considerably worn; and a blue nankeen roundabout.

This conversation was not more than two weeks before Mr. Chapman was taken sick. Upon their return from Philadelphia, Mrs. Chapman spoke of Mina's trouble on account of the news of the death of his sister. Mina was in great distress for his sister; he went into the parlour, and gave vent to his grief. Mr. Chapman went into the parlour, and mourned with him. He showed no displeasure towards Mina at this time.

Mr. Chapman was not delirious in his illness when I saw him.—I have not been led to apprehend a charge against myself for administering improper medicines to him.

By the Court.—I am very confident Mrs. Chapman did not request me directly to go for a physician.

Dr. Allen Knight called again for prosecution.—Since Mr. Chapman's death I was called upon to attend Mina. I never saw him in a fit. I bled him at his particular request.

One of the last symptoms in Mr. Chapman's case, was his deafness. At times he was delirious—complained of a burning pain in his stomach, and dryness of the mouth. His extremities were very cold—vomiting and purging were frequent, the pulse small and tremulous. I remember no soreness of the mouth—no complaints of the rectum. He was frequently out of bed the day before he died. I remember going out of the room on Wednesday for the purpose of consultation. We treated the disease as cholera morbus. I know of no involuntary discharge per anum. I judge he was delirious, from

his behaviour. What he said was incoherent—he attempted to get up—at times he recognised us, and at other times he did not. He was not violent. This incoherency was present about ten o'clock when I left the house—it was present to a slight degree when I first saw him, which was on Tuesday, about seven o'clock. He would frequently cry out and ask if all was right.

William Field, Esq. deputy sheriff, twenty-fifth witness for prosecution, sworn.—[This witness was called to prove the handwriting of Mina, in the various letters from him to Mrs. Chapman, already published.]

Mr. Ross moved for an attachment against Willis H. Blayney, who was a very material witness, and who had absented himself. Mr. Ross said, this witness was to prove an important fact which he had stated to the jury in his opening speech. The attachment was awarded and issued instanter.

Mary Hamilton, twenty-sixth and last witness for prosecution, sworn.—I lived at Mrs. Chapman's during the last summer. I went there on the 25th of June. While I was there, Mrs. Chapman was making preparations to go to Mexico, with Don Lino. There was clothing made for herself and for the children.

Cross-examined by Mr. Brown.—I came out to Mrs. Chapman's with Don Lino, and another girl—I assisted in washing, and ironing, and sewed the most of the time. I was to wash and iron and plait Don Lino's shirts. He called for me at Mrs. Battel's. Three girls were sent for—a cook, and a waiter, forbye me. It was after Mrs. Chapman returned from New York, and after she told me she was married, that she told me she was going to Mexico.

The court having decided to wait for the return of the attachment against Mr. Blayney, the jury retired until to-morrow morning, at ten o'clock.

The application for the postponement of the trial of Mina was then taken up—Mr. Rush addressing the court on the part of the prisoner, and Mr. Ross for the commonwealth.

[The great accumulation of matter more important to the present publication renders it inexpedient to report this argument. Mr. Rush urged his application upon two grounds: 1. A libellous publication in the Bucks County Republican, of February 14th, 1832, purporting to be a letter from Erie prison, and signed by Lucretia Chapman; which was calculated to prejudice the minds of the public in relation to Mina. This letter is very nearly the same as that written by Mrs. Chapman to Colonel Cuesta, and which will be found in the evidence for defendant. On this ground it was contended to be a matter of legal right. 2. The existing circumstances of the case, viz: the trial now in progress, and the disclosures now making in prejudice of Mina; this ground was addressed to the discretion of the court.

The court decided, that the application was not a matter of legal right; but in the exercise of a sound discretion, taking into view the publication alluded to, and the evidence adduced, they consented to the postponement of Mina's cause till the next term; upon condition that the testimony of Mr. Fanning, Ann Bantom, and Mr. Guillou, who resided out of the state, and Mr. Clemson, who was about to leave the country for Europe, should be taken by deposition. The counsel then agreed to take the notes of Judge Fox, which were accordingly filed for that purpose.]

Wednesday morning, February 22.

Benjamin Boucher called again for prosecution.—I have some further recollection since I went home. On Monday before Mr. Chapman died, I was mowing in the lot; a chicken came from Mr. Chapman's yard, above the shed; it was coming across the road, and it died before it got across. My son buried it. There were three chickens that died, that came across the road from Chapman's yard. I think it happened in the fore part of the day.—Some of the ducks were dug up, and I fetched the remains of them with me.

Mr. Ross asked, What was the appearance of the bones?

Mr. Brown objected to any description of the bones. It might savour of quackery, for him to say much about these ducks, but he thought the bones ought to be produced to speak for themselves. He had no doubt they would speak with most miraculous organs.

The objection was overruled.

Boucher continued.—There was something white on the bones. It seemed to be in little fine pieces, and fairly glittered, it was so white. I broke one of the craws open, and it appeared to me there was something there similar to what was on the bones. I wrapped them up carefully in a newspaper, and put them in my hat when I started from home, brought them and left them in Mr. Ross's office. The craw was full and appeared to be sound. There was nothing left but the craw and bones. All the rest had wasted. They were buried eight or ten inches under ground.

Cross-examined by Mr. Brown—The ducks died after I had my dinner. I think it was betwixt twelve and three o'clock. My son mentioning the black chicken to me, brought the chickens to my mind.

I had not laid out a dead body for several years, before I laid out that of Mr. Chapman. I had been present on such occasions. I think there were lights in the room at the time. It was about daylight.

The stage having arrived from Philadelphia with Mr. Blayney's name on the way-bill, but without his person, the court would not agree to any further delay, and therefore the testimony for the prosecution was here closed.

Afternoon.

Mr. M'Call opened the case for the defendant.

Deposition of Dr. Franklin Bache, first witness for the defendant. (Read by Mr. M'Call.)—Franklin Bache, of the city of Philadelphia, M. D., being duly sworn according to law, deposes and says: I am professor of chemistry in the Franklin Institute, and College of Pharmacy, in the city of Philadelphia. The symptoms of poisoning by arsenic are very diversified. They have certain general characters, to which there are numerous exceptions. The most general symptoms are such as occur in cholera morbus; such as puking and purging; general distress at the pit of the stomach; cold perspirations; towards the end of the symptoms, coldness of the extremities, lividness: sometimes a metallic austere taste in the mouth; burning in the stomach; before death, convulsions very frequently supervene. There are cases on record, where a very few symptoms of indisposition have been manifested. The symptoms produced by arsenic are so various, that no satisfactory conclusion can be drawn from them, in proof of poisoning by arsenic. It is quite probable that variation in the symptoms may depend on the age and constitution; and the quantity of poison has a very decided influence in determining the character of the symptoms. These are different where the poison kills in a few hours, after a few days, or the lapse of several weeks or more. These differences depend, in my opinion, partly on the quantity of the poison taken, and partly on the vital resistance of the system. The symptoms of poisoning by arsenic sometimes resemble those of violent colic. The symptoms are very various, and afford but light presumption of arsenical poison, as to their cause. I have never treated a case of real or reputed poison by arsenic. What I state here is the result of professional knowledge. Poisoning by arsenic has various phases; sometimes there is no puking, but diarrhœa alone; and sometimes neither. Five or six grains will produce death, or less, if there is no vomiting. There are general appearances after death, which are usually thought to occur in cases of poisoning by arsenic, but they are by no means constant, and may be therefore deemed fallacious as a ground of inference, as to the cause of death. All these appearances, thus considered to characterize arsenical cases, occur in other diseases. There is no particular mark which is peculiar to arsenical cases, or conclusive of their nature. I speak (generally without restriction) of the external

and internal appearances of the body. In illustration of this, it may be stated, that arsenic often produces a violent inflammation of the stomach, and the best authorities inform us, that the appearances in death by yellow fever are very similar to those produced by arsenic. The appearances in all cases of violent inflammation of the stomach from natural or accidental causes resemble those exhibited by the stomach in most cases of death by arsenical poisoning. Cholera may, perhaps, produce violent inflammation of the stomach. There are many cases when spots have been observed on the cavities of the heart. Arsenic lessens the contractility and irritability of the heart. The appearances of the heart are by no means so important as those of the stomach. Arsenic is supposed to produce death by destroying the irritability of the fibre. It affects the general system, most probably by absorption.

I have no opinion on the effect of arsenic to hasten or retard putrefaction, except what I derive from books. Orfila says it has no effect either way; and he is the highest authority I know. I believe it preserves locally, without having effect on other portions of the frame. Bodies may be preserved unusually long from peculiar circumstances, such as the condition of the body as to leanness or obesity, state of the ground, or nature of the disease.

Arsenic is that poison which is, perhaps, most easily detected a long time after death; its mineral nature, to a considerable extent, preventing its being lost. It can also be detected in a very minute quantity. My impression is, that some authorities state that so minute a portion as the two-hundredth part of a grain may be detected. Such minute quantities may be detected only by the most expert chemists; but certainly, a grain of arsenic will furnish several experiments to those not particularly skilful. The proofs of the existence of arsenic are made out chemically by tests on one hand, and reduction on the other. The tests, when they yield the characteristic appearances, furnish a strong proof of the presence of arsenic; but the reduction of the metal is more conclusive. The exhibition of the poison in its metallic state is the best evidence the case admits of; and, in my opinion, can always be effected when the liquid tests indicate arsenic. The reason why I consider reduction a better evidence than precipitation by the liquid tests, is, that precipitates are more likely to be mistaken in their character, than metallic arsenic. Some of the best authorities are in favour of the proof by metallization, as being that on which most dependence can be placed; and all speak of it as a highly important proof. I would not be willing to decide on the presence of arsenic without reduction, because I would not be satisfied by any evidence or proof, except what I considered the best. I examined the contents of the stomach of Mr. Fenner, in conjunction with Dr. Bridges, and did not feel satisfied of the existence of arsenic until reduction was effected.

With regard to any possible effect of arsenic in preventing putrefaction, it is my impression that if this supposition be well founded, and the mineral were present in sufficient quantity to have a general effect of preserving the body, it could be readily detected. Reduction is the most decisive test. I think the alliacious odour is not to be depended upon, because other substances have some analogy in odour. The best authorities are against the conclusiveness of this indication.

Cross-examined.—I do not recollect having seen a case of cholera, in which such burning heat in the stomach, as is described in this case, occurred. The lividity described is one of the appearances after death in cases of poison by arsenic. From the symptoms detailed, I should certainly say, that Mr. Chapman did not die of an affection of the head. If there is no vomiting, less than five or six grains may kill. When I say the appearances in death by yellow fever are very similar to those produced by arsenic, I mean the appearances of the stomach; other appearances are widely distinct. In Fenner's case I do not recollect that the alliacious smell was produced; I think it was not sought after. Phosphorus has a smell somewhat alliacious; in this case

phosphorus could not be present in the body; but phosphoretted hydrogen, which has a smell somewhat alliacious, and which is sometimes the result of putrefaction, might possibly be present. I have never observed the odour of phosphoretted hydrogen in cases of putrefaction. Zinc is said to have a smell somewhat like garlic, but I have never perceived it. The smell of garlic itself, in cases of examination soon after death, might be mistaken by the inexperiencnd for the alliacious smell produced by arsenic. I think garlic could not have been present after so long an interment as in this case, which I understand to have been nearly three months. Nothing else that occurs to me will produce the alliacious smell. I do not think I should be apt to mistake the smells I have mentioned for that produced by arsenic, but I might do so. In Fenner's case I was very much struck with a peculiar odour from the stomach and bowels, such as I never remember to have observed before from a dead body. I mentioned it at the time to those about me. It was like tanner's oil.

In common cases of cholera there is not active inflammation of intestines or stomach. If there were a bloody discharge from the anus and no inflammation of the intestines, I should suppose there was local inflammation near the anus. There might be a train of symptoms, which would furnish a strong presumption that they were produced by the taking of corrosive poison. I do not recollect ever examining a body after death by cholera morbus.

Dr. Joseph Togno, second witness for defendant, sworn.—I am a practitioner of medicine. I studied with Dr. Chapman, and graduated in the University of Pennsylvania. I have delivered lectures on anatomy, physiology, comparative anatomy, and medical jurisprudence.

Considering human fallibility, and considering all that has transpired before me during this trial, I now with reluctance come forward to testify even to the evidence of my own senses. My friend, Dr. J. K. Mitchell, is in the habit of inviting me to his laboratory every time that any thing interesting is going on. I do not distinctly remember whether I was invited on this occasion, but availing myself of his general invitation, I paid him a visit on a certain day, the date of which I do not remember. Here I found him busily engaged with his friend Mr. Clemson, whom I had never seen before; and who was introduced to me by Dr. Mitchell. This being done, they proceeded to their examination. A solution, which was said to be that produced from certain manipulations of the stomach of a Mr. Chapman, was over a spirit lamp, for the purpose of condensing the fluid. From time to time Dr. Mitchell and Mr. Clemson tried two tests in my presence. The one was nitrate of silver; this trial failed in obtaining the desired result. I was convinced of this, and so was my friend, Dr. Mitchell, and Mr. Clemson. The ammoniacal sulphate of copper was then applied, and this test also failed in producing the desired result. While they were thus engaged, I proceeded to a box in which was contained a glass jar, in which the stomach of Mr. Chapman was, as I was informed by Dr. Mitchell. Having heard a great deal of it, curiosity urged me to examine it; and having then no ulterior view, I perhaps did not examine it with all that care and accuracy which such a case always demands. As well as I can remember, the stomach was in spirit of wine. I took it in my hands, and found there was a cut through the coats of the stomach, which exposed its cavity. I turned the inside out, and the whole surface, as far as I now remember, presented one uniform pale colour, resembling a piece of tripe after being washed, with the exception of two dark purple spots, of the size of a cent; and I believe that they were on the posterior part of this cavity, at about a distance of one inch from each other. To this, nearly, my examination was confined. The stomach was somewhat hardened by the spirit in which it had been plunged, and its apparent consistency increased by this process. Not knowing any one of the particularities of the case, except a general rumour that a certain Mr. Chapman was poi-

soned, I paid no further attention to the case. This is the amount of the facts to the best of my recollection.

In reply to questions put by defendant's counsel.—With respect to the two spots spoken of, my impression was, that they were a mere cadaverous phenomenon, there being nothing more common than the settling of the blood by its specific gravity in the most depending parts of the stomach or any other part, some time after death. To this phenomenon, at the time, did I ascribe the cause of these spots, and not to inflammation. By cadaverous phenomena, I mean those regular and gradual changes which take place after death, and gradually increase to the destruction of every tissue or part. The nitrate of silver should throw down a straw coloured precipitate. This, however, presupposes the arsenical solution to be colourless, and free from any animal or vegetable matter. The precipitate thrown down in this case, while I was present, was of a brownish yellow. The slightest reliance could not be placed on that experiment; but if the arsenic has been mixed with soup, a *white* precipitate would be produced. The ammoniacal sulphate of copper would throw down a brilliant green with flocculency. In this case it scarcely threw down any precipitate; what it did was of a dirty green, and I believe, it soon changed into a bluish green. Suffice it to say, that we put no confidence in the result of these two experiments. There are vegetable substances which will produce a green very nearly alike that produced by the solution supposed to contain arsenic in this instance. Those which I have tried are a tincture of ginger and stramonium, substances often used in medicine. I do not mean to say that the tincture of these substances will produce as perfect a green as a colourless and pure solution of arsenious acid; but that in this case the two might be readily mistaken. The colouration of the solution of ginger would be as clear a green as that produced in this instance. I speak from actual experience. Stramonium would colour the water in the same manner. In elementary works a number of other substances are mentioned which will produce the same result.

Sulphuretted hydrogen is the great detecter of metals generally. I believe it will detect any metal. The detection of arsenic is exhibited by a canary yellow precipitate. The reduction of the metal is the best test of arsenic. Where the tests answer perfectly, the metal may be reduced. If any portion of arsenic had been exhibited by these tests, it could have been reduced, in the hands of a skilful chemist. As I am not a very proficient chemist myself, and do not make it my sole pursuit (although I am not a stranger to chemistry), I must rely upon the authority of the best chemists when I state, in answer to the question, that I believe a portion as small as the 200th or 300th part of a grain has been obtained. I do not believe there could be arsenic enough to resist putrefaction in the stomach, which could not be detected by the regular process. I should not feel myself authorized to say there was arsenic from the liquid tests without reducing the metal. I have heard the symptoms detailed by Dr. Phillips and others. These symptoms are exhibited by other diseases, so much so as even to deceive an experienced physician. I come to this opinion, not upon actual observation, but from the careful perusal of the best authors upon the subject. If the observer is a *good* observer, and in whom we can rely, then we can come to some conclusion, but never as when we examine the thing ourselves. The accumulation and progress of every kind of knowledge depends on the question now put to me. Towards the last moments of life the pulse generally diminishes, the contractility of the heart diminishes also with the life of the individual. Fluttering and irregularity of the pulse are not unusual in other diseases. As a general rule, coldness and clamminess of the extremities exist in all diseases. All the symptoms detailed by Dr. Phillips accompany cases of cholera morbus. Cases of violent indigestion would present very much the symptoms detailed in this court by various persons. Discharges from a diseased rectum would be attended with considerable pain. There are bloody fæces in piles. In dis-

eases of the rectum, violent diarrhœa, dysentery, &c., bloody discharges to my knowledge are common. When such cases terminate fatally, we find, on examination, the alimentary canal ulcerated in different parts, which accounted for the bloody stools. The rigidity of the body some hours after death is not an unusual thing. The body becomes rigid as it becomes cold, and its degree of rigidity is always in proportion of its degree of coldness. It has always a tendency to become cold some hours after death. The rigidity observed in a common case of death by arsenic, cannot be distinguished from the rigidity attendant on any other disease, unless the rigidity has been produced by violent convulsions, in which case there may be contractions of the limbs.

As to the preservation of the body after so long an interment, it may be ascribed to a variety of causes, or all may partially contribute to produce this result; for instance, the age, sex, and temperament; the disease which produced death, and its duration; the state of obesity or leanness of the individual; manner of burial; the season of and time kept before burial; the manner of inhumation; the quality of the soil; the depth of the grave, and finally the flatness or declivity of the ground. These results have been obtained by Orfila, from a series of experiments purporting to ascertain the influence of all these physical agents in retarding or accelerating putrefaction.

I could not discover the state of the inside of the stomach from the appearance of the outside, any more than I could discover the lining of the coat by examining the cloth of which the coat was composed. The external surface of the stomach is covered by a membrane whose functions are diametrically opposite to those of the one inside. Opinions are divided as to the number of coats of the stomach. There are three coats. In a very violent inflammation of the internal membrane, the external membrane sympathizes and becomes inflamed; but the external membrane being inflamed is no evidence of the internal membrane being so. I could not tell the difference between inflammation produced by arsenic, and inflammation produced by any other cause, as I never saw a case of death by arsenic. In violent vomiting, the gall bladder would probably be found empty. In cases in which there is no vomiting, the arsenic would invariably be found in the stomach. The emptiness of the intestines after death depends upon the diarrhœa which preceded death. As to the appearance of the intestines I would put no reliance, as being caused by a phenomenon during life, because, during the lapse of three months, many phenomena must have preceded the one observed by the gentlemen appointed to proceed to that examination. Moreover, Dr. Mitchell speaks of having observed that the mucous membrane was detached in some parts from the muscular coat, which is certainly an evidence of an advanced degree of putrefaction, showing the fallacy of judging of this case by the appearance observed in the examination. I cannot say that the symptoms would be incompatible with cholera morbus.

For the opinions I have expressed, I rely on Orfila and Montmahou. Berzelius I should put at the head as a chemical authority. Christison is a distinguished authority.

From the best of my impressions, I should say, from the symptoms, post mortem examination, and chemical tests, that William Chapman did not die of arsenic.

Croes-examined by the commonwealth's counsel.—I have been a practitioner of medicine three years. I can state the general symptoms of poisoning by arsenic; but after all they would be fallacious, as, of all the cases which I have read in detail, no two are alike. Violent vomiting, one, two, or more hours after taking the poison, occurs; a constriction of the throat; pain and burning in the stomach; great lassitude, disabling the individual almost to move; after the vomitings have continued some time, thirst; and if this state continue, purging follows; the circulation is slow, and participates in the general prostration of the vital powers. These symptoms run through their career in the space of a few hours; for instance, from three hours to twenty-

four hours. These are the general symptoms; there are nervous symptoms, such as convulsions, and at times the loss of the intellectual faculties towards the end of the case.

The reason why I am induced to believe he did not die of arsenic is, that no arsenic has been found. I have no testimony that he did die of arsenic from the exhumation; far from it; the gentleman appointed to examine the body, candidly and honourably to himself, acknowledged that the examination was imperfect. If I had examined the stomach the day after, there would be no certainty that he died of arsenic. There was no appearance in the stomach that induced me to believe he did die of arsenic; my reason is this; that, at the time, Dr. Mitchell stated that the mucous membrane was detached, which was an evident proof of an advanced stage of putrefaction, which must have destroyed all the appearances which existed during life. There was no appearance in the stomach that he did not die of arsenic. He had not any one symptom that any one dying of arsenic would not have. I have been a student of chemistry and of medicine for eight years. I have studied chemistry with Dr. Green, Dr. Hare, and Dr. Mitchell. I have not paid much attention to analytic chemistry; I mean the manipulation of it.

I believe the stomach was in spirits of wine. I am not positive. I should put greater reliance on the symptoms and the exhumation if the tests had not failed; but these failing, their failure reacts upon the symptoms and exhumation. If the poison had been found, then I should say that the symptoms and appearances were to be regarded, to show that the poison was in the body during life, and not put in after death. I mean that if there is no arsenic found, all symptoms and exhumation go for nothing. In a word, no poison—no poisoning; no cause—no effect. I consider that the symptoms, exhumation, and tests are no evidence that he died of arsenic. The symptoms, exhumation, and tests satisfy me that he did not die of arsenic. I am of opinion that if arsenic enough has been given to produce death, it could be found; and because, upon the proper tests being employed, it was not detected, I infer he did not die of poison. There is one case recorded in Orfila, of a man who was supposed to have died by arsenic, and no trace of it found afterwards, but it is not believed to be true. Such cases are not believed by persons who cultivate medical jurisprudence. Orfila says the case I mentioned is not true. Christison, as well as Orfila, says, that in every instance in which they have analyzed the contents of the stomach of persons dying by arsenic, they have found it by reduction. I should not rely on the alliacious odour. As a single test, standing by itself, established authority says it ought to be entirely discarded. Whenever the fumes are sufficient to impart this smell, the metal may be reduced. I have bestowed great attention to medical jurisprudence.

Col. Estanislao De Cuesta, third witness for defendant, sworn.—The witness asked for the aid of an interpreter, believing himself to be unable to relate his narrative in the English language. He referred to two of the counsel (Messrs. Reed and M'Call), either of whom was well qualified, he said, to render that assistance.

Those gentlemen desired to be excused, by reason of the situation in which they were placed as counsel in the cause, as well as from a conviction that the witness was sufficiently acquainted with the English language to obviate any need of an interpreter.

Judge Watts said, he had conversed with Col. Cuesta, and was persuaded that he need not apprehend any difficulty.

The witness then proceeded, referring to Mr. Reed for assistance, on a few occasions, in the course of his testimony.

I am consul of the Mexican government, for the city of Philadelphia. In May last, I resided in Union-street, No. 5; my office was next door, No. 3. On the 17th or 18th of May, 1831, between twelve and one o'clock of the day, there came two persons to my office, one of whom saluted me in Spanish, telling me that he was an unhappy Mexican, whose name was Lino

Amalio Espos y Mina; and requesting me to hear his misfortunes. The other person was a lady, Mrs. Chapman. I then offered them seats, and they sat down.

He told me that he was a Mexican young man, whose family were in California. His father, he said, was governor of that state, and his mother was in Mexico. He (Lino) lived with his grandfather, who was very rich, and that was the only merit he had; for he had the same education which I might perceive in himself. His grandfather, having made an acquaintance with an English gentleman, was induced, at his request, to send Lino with him to Europe for some years, that he might see and learn something of the world; and for that purpose, gave him money enough to travel. They went by the city of Mexico, where his mother was, and remained there a week or ten days; she recommended them to Mr. William Taylor, consul of the United States at Vera Cruz, telling them that this gentleman was very intimate with her, and he could be useful to them. They proceeded to Vera Cruz, where Mr. Taylor received them into his own house, and took their passage for them in a vessel about to sail for France, telling him (Mina) to send letters for his family, to his care. They arrived in France, I do not remember how many days after. In a few days after their arrival, the English gentleman in whose company he went, died suddenly while in church. He then inquired for some person who could speak Spanish, as he could not speak French; a Spaniard came and offered his services. He told him what had happened, and asked him to take him home. They went to the hotel. In a few minutes after, the English consul came to his room, taking away all their trunks and money; Mina told him a part of those things belonged to him, but the consul would not believe him, but told him, if he had any right to these things, he could have them in time. Mina was not afterwards able to find the consul, or any one that accompanied him. Finding himself in a strange country, and without friends, and not speaking French, he complained to a gentleman who was in the same hotel, and asked him for advice. That gentleman pitied him, and told him he had better go back home; that he himself had been in the same circumstances; and gave Mina $100 to enable him to return. Mina then determined to come to Boston, having a relation in that place, and having heard that his grandfather had money in a bank there. He arrived in Boston, and was disappointed in learning that his relation had gone to Mexico, with a lady whom he had just married; and he was not able to hear any thing as to the money in the bank. Not being acquainted with the English language, he determined to come on to New York, to see if he could find a friend of his who had taken leave of him in France, for this country. At New York he was told that they would inform him at Joseph Bonaparte's where his friend was; he went there, and could not find any one, and determined to come to Philadelphia by land. He got tired on the way, and went to a tavern to ask for something to eat, and a room to rest. They told him he could have any thing he paid for; he said he had no money; and the man told him he could go away, for he would not give him any thing. Going on his way he saw a country-house, where he stopt to ask for the same thing. On his telling them how tired he was, and how much he had suffered, they offered him to rest there during the night, and he could go the next day. On that night he told them his history. The next day he thanked the owners of the house for their hospitality, telling them he was going to take leave. They told him that his lot need not change so soon, and that he had better remain there until he found some friend, or received some news from his family. He accepted the offer; and they took him to Bonaparte's, to ask for the same gentleman that he wished to see before; they could not see him, and came back again. Afterwards they came to Philadelphia, and somebody sent them to my office. He then requested me to send the letters which he had in his hand to his family; and until he received an answer, he said he would wait in the house of the

lady who was with him, and who was the virtuous, kind, and hospitable wife of the gentleman of that house.

I then remarked to him, that I could not believe all that story to be true, because I observed that his manners and his bad language did not show him to be such a man as he would have me believe. He said, it was true, he was an ignorant man, without any kind of education, but the reason was that his grandfather was without education, and had neglected him (Mina) in that particular, and therefore had sent him to travel, to improve his manners. I remarked to him, I did not know that there was any governor of that name in Mexico. He said he did not know where his father was, or whether he was governor or not, for he had only heard it from his grandfather; his father was in some high employment, and he thought it was governor. I then asked him where was the place at which he had resided; he could not give me any answer. I asked him where his mother lived in (the city of) Mexico; I knew from his answer he had never been in Mexico, and told him so. He said he had been there, and that all he had stated was true; but he had been suffering so much from the loss of his friend and money, that he was almost out of his senses. Then I asked him to give me some proof that he was a Mexican. He asked, what proof? I asked him for his passport. He replied he had none. I then asked him for his certificate of baptism, which all of my countrymen carry with them. He said his passport was in his friend's power, and he did not know what had become of it; and the certificate of baptism was in his trunk, with many other documents, which had all been taken away. I then told him I would write to the American consul, and send him the letters he had given me for his family; which were directed to the care of the consul at Vera Cruz. He then told me he would write another letter to his mother, and I prepared paper and pens for him. When he was about commencing, the lady told me that she wished to attend to some business, and would call again in one hour, to take him back with her, if I thought that would be time enough. I told her it would, and she went out. Mina then asked me to write the letter, because he was ashamed to write before me, as his handwriting was very bad. I told him I was busy, and that he could write himself to his own mother, because it was rather her fault, that he could not write better; he then said, if he had thought of it before, he would have brought the letters without sealing them, until he had seen me. I saw one of the letters that he had, and as the paper was thick, and sealed with a wafer, I told him I could open it, and he might write a postscript. He asked me to have the kindness to open it for him. I put water on the wafer, and left it until the wafer was soft, and then opened it. He said he was very glad to learn that manner of opening letters, and that he would never write on thick paper, or seal with wafer. He wrote the postscript and sealed the letter again, and sat down, waiting for the lady. I was then employed in my business for more than an hour and a half, and the lady did not come, at half-past three o'clock. I think it was more than two hours after she left my office. I was then called to go to dinner, and I asked Mina if he would come with me and take dinner; it being a custom in my country, that when a person is called to dinner, he invites the stranger with him; but it is customary also, that the stranger never accepts such invitation, because it is understood merely as an act of politeness. But Mina accepted the invitation, and went with me. I was ashamed to take him home, because he was so dirty that he looked like a beggar; but as he came to see me with a lady who appeared to be very respectable, and she herself brought him in her own carriage, I thought I could take him, making this apology to my mother and sisters. My family were at table, waiting for me. We sat down, and in a few minutes after, the waiter told me that a lady whose name was Mrs. Chapman, was in the parlour, asking for Mina. I went down-stairs into the parlour, and told her that we had waited in my office for her till half-past three o'clock, and as she did not come, I had invited Mina to take dinner

at my table; and I would feel myself honoured if she would accept a place at the table, as we were just beginning. She thanked me, telling me she had dined, and would wait willingly until Mina was done. I went up-stairs to ask my elder sister, who could speak a little English, to be company for her till Mina was done. I came down-stairs with my sister, and introduced her to Mrs. Chapman. (*Adjourned.*)

Thursday morning, February 23.

Col. Cuesta in continuation.—As it was very warm, I asked Mrs. Chapman if she would take any refreshment. I believe she asked me for a glass of water. I asked her if she would not prefer a glass of cold lemonade; she said she would, and I ordered the lemonade to be brought into the parlour.

She said then, that her child was taking care of her horse at the door. I went out and brought him into the parlour, leaving a servant with the horse. I caused some sweetmeats to be brought for the child—I do not recollect whether or not they brought him any wine. I went up-stairs to tell Mina to make haste, the lady was waiting for him; he followed me down-stairs. Mrs. Chapman got up to go, and in doing so, she told my sister she would be glad to see us at her house; my sister reciprocated her politeness by the same offer. I accompanied the lady to her carriage. When she was in, I observed that Mina was without his hat, and told him he had forgotten it. He made his excuse, saying that his head was disturbed, and he did not know what he was doing. As soon as he got his hat, they went away in the carriage. That very night I was informed that Mr. Taylor was no longer consul at Vera Cruz, and that he was then at New Orleans. In a day or two after I wrote to him, and sent Mina's letters to Vera Cruz by the first vessel. On the same day I wrote a letter to Mina. These are copies of the letters to Mr. Taylor, and to Mina. (Copies produced and read).

(Mr. Cuesta here produced and read the copy of a letter written by him to Mr. Taylor, late consul of the United States at Vera Cruz, communicating what Mina had narrated, and making inquiry as to the truth of the story. The date of the letter 19th May, 1831. Mr. Cuesta also produced a copy of the following letter to Mina, the original of which has been found among Mina's papers on his arrest at Boston, and was now shown by Mr. Reed to Mr. Cuesta, and identified. The date was torn off the original, which was postmarked Philadelphia, May 20. The copy was dated 16th May, 1831.

Muy Sr. Mio,—Me han informado que el Sr. Taylor se halla en Nueva Orleans, le he escrito y luego qe recibu contestacion avisaré áv, lo mismo que cuando reciba las de Mexico. Salude v. à la Sna Chapman de mi parte, y celebrando se mantenga v. sin novedad quedo su atento servr. q. b. o. m.

ESTO. CUESTA.

To Lino Amalio Esposimina,
Care of Mrs. Chapman. Andalusia P. O., Bucks County, Penna.

TRANSLATION.

Sir,—I have learned that Mr. Taylor is at New Orleans. I have written to him, and as soon as I receive an answer from him or from Mexico I will inform you. Present my respects to Mrs. Chapman, and believe me, &c.

Col. Cuesta continued.—I never received the answer from his family, nor from Mr. Taylor, because I was told that this gentleman was in New Orleans, and probably he was somewhere else (at the time). A few days after I had written to Mina, I received his answer, written in very bad Spanish, in a kind of spelling peculiar to himself, and not to be found in any book; a copy of which this is. (Copy produced and read).

Andalusia, Mayo 21, 1831.

Muy Sr. Mio.—Reiví la de V. S. con todo placer, y fecha, de el 19 de el corriente, en del qe do infromado de lo ql V. S. me comunica: emas he en-

contrado una contradicion, hi determino pasar a comunicarle a V. S. bervat: mente, para ql V. S. me diriga votre de el particular.

le participo haberen Contrado una presona de mi á mistad la ql me ha asistido prefectamente.

Reciva U. S. Espreciones de la Sa. Chapman y permita me V. S. ponerme alas ordenes de su Sa. Madre y demas familia de su Respetable morado. y se lelva se mantengna V. S. Sin. novedad y ordene á su atento servidor q. B. S. M.—Lina Amalio Esposimina.

Sr. Dn. Estanislao Cuesta.

Col. Cuesta continued.—I could not then, nor can I yet, understand the meaning of that letter. But according to what had passed between us before, I interpreted it in this manner; he was afraid the lies of which his story was made up would very soon be discovered, and wanted to make me believe he had found the friend he mentioned, and therefore he would not want my services; and this made me think him an impostor. A few days after in the afternoon, he came to my house with Mrs. Chapman, and met my sister. They asked for me; my sister told them I was sick in bed, and they could not see me; and they went away. Eight or ten days after, I met Mina in Chestnut-street, opposite the State-house; he stopped me, and saluted me; I told him, I would not be spoken to by him, and he must never stop me in the street again, nor come to my house; that his conduct was very wrong, and if he thought to deceive me, he was very much mistaken. A few days after, when I went to my office, I found a letter on my table directed to Mina's father; I think the address was in Mina's hand; the letter was written on thick paper, and sealed with a wafer. I knew in a moment what that meant, and asked one of my clerks who brought that letter there. He said that Mr. Le Brun brought it, asking him to have the kindness to send it by the first opportunity, without saying from whom the letter was. I put it among other letters to Mexico, and sent them by the first opportunity.

A few days after, Mr. Page, the tailor at the corner of Chestnut and Sixth-streets, sent to request me to inform him whether I knew Mina. I told him I did not know him, or any thing about him. In about half an hour the same person came back, and requested me, in Mr. Page's behalf, to know what I thought of Mina. I told him that I did not think any thing good of him, and I believed him to be an impostor.

On the 20th of June I left the city with a part of my family, and was absent until the 10th or 12th of September. A very few days after, a person came to my house, and said he was an officer of the police; and came to see me from a magistrate to know if I could tell him where Mina was, and whether I could describe him. I believe this officer is now in this house. I told him I did not know where Mina was, and had not taken notice of his appearance; I gave a description, however, which I believe he wrote down. Some days after, this person came to my office with a certificate, signed by Mr. Montolla, and asked me if that signature was genuine. I told him it was not, and showed him the signature of Mr. Montoya, and the seal of the Mexican legation, which was entirely different from that on the certificate. He then asked me to lend him a letter of Col. Tornel, who had been the Mexican minister before Mr. Montoya was chargè d'affairs. I gave him the letter he asked for. Some time after I received a letter from Mrs. Chapman, dated at Erie. (Letter produced and read.)

After I had read that letter, I showed it to my sister, telling her to see what Mrs. Chapman said about her. After she had read it, she said she was very sorry that Mrs. Chapman was mistaken; she was sure she never had told her that Mina was a rich man in his own country, because she could not say such a thing without knowing him. She recollected that when they were speaking in the parlour about Mina, as she had nothing else to talk about to Mrs. Chapman, she told her in a complimentary way, that she was obliged to

her for her kindness and hospitality towards that person, supposing that he was a Mexican: and I did the same myself to Mrs. Chapman. My sister also remembered that she told Mrs. Chapman, that it was a pity to see a young man so unfortunate; as he represented himself to be rich in his own country.

As it was necessary to make a very long explanation in reply to the contents of her letter, because every thing that Mina had told her was not true, I thought that that was not the time to do so, and I was afraid my letter might fall into wrong hands, and have an influence against her. As she asked me to call on Mr. Campbell, her lawyer, I went myself to that gentleman's house, with the intention of informing him what Mrs. Chapman wished, and to pay him from my own purse, and do all that I could in her favour. But as I was informed that Mr. Campbell was not in town, and having heard that Mr. Brown was her counsel, I was very glad, because, although I had not the honour of knowing that gentleman, yet his fame had reached me; I therefore thought that it was prudent to reduce my answer to the terms of this letter. (Produced and read.)

Philadelphia, 10th December, 1831.

Mrs. Lucretia Chapman, Doylestown,

Madam,—A few days since, I had the honour to receive your communication, dated Erie, November 29th. I have perused it with interest, and very much regret the critical and unfortunate business in which you appear to be involved. I hope and truly wish that you are, as you say, innocent; and that you may be acquitted and liberated soon. According to your wishes, I have called myself at Mr. Campbell's, the lawyer, who happens to be at Harrisburg; and was informed by one of the family, that he had nothing to do with your business; having seen by the public prints that you had a very respectable and able counsellor, Mr. D. P. Brown, I have not the least doubt but that gentleman alone will see justice done to you; therefore, Madam, I have the honour to be,

Very respectfully, your humble obt. servant,

(Es Copia.) ESTO. CUESTA.

After writing this letter, I put it in my pocket with the intention of putting it in the post office. While at dinner, I was told there was a lady in the parlour who wished to see me. I went down, and found Mrs. Chapman there, and some person with her. I saluted her, but did not know who she was, until she told me; I then told her I was very glad to see her, that I had received her letter, and had also the answer ready in my pocket. I took it out and gave it to her; she read it and put it into her reticule. I do not remember what she said to me; and I was so sorry for her situation, that I would not speak to her about it. A few minutes after, she went away.

I think this is all that ever passed between Mrs. Chapman and Mina and myself. As for the stories he has told, they are utterly false.

The counsel for the prosecution declined cross-examining Col. Cuesta.

Lucretia Chapman, fourth witness for the defendant, being called to be sworn, Mr. Ross asked her the following questions.

How old are you?

Witness.—Ten years old.

Do you know what you have come here for?

Witness.—(after a pause.) To swear to all I know.

What will become of you if you do not tell the truth?

Witness.—I will be cast into hell-fire for ever.

Court.—Let her be sworn. (She was thereupon sworn.)

I was at our house in Andalusia with my parents, at the time that Mina came there. He came in the evening, just as the candles were beginning to be lighted up. He had black clothes on. He came and knocked at the front door Mr. Forman went to the door, and came back and told pa there

was a person there who wished to see the gentleman of the house. Pa said, "it is a beggar, I suppose—tell him to come in." Mr. Forman brought him in. He came up close to pa and bowed, and solicited a night's lodging. He said he had been refused at the tavern below. Pa told him there was another tavern about half a mile above. Ma said the carpenters had gone, and he might stay all night. Pa said, "very well then." Lino then sat down. We were exercising on a grammar lesson, which ma was explaining to us. After we got through, he told his story—(my father was sitting in the rocking chair nursing little John.) He said he came from Mexico, and when he left, his father was governor of California. He started from that country with a doctor, who had relieved his grandfather: his grandfather had a skin growing over his lungs—the doctor gave him something to make him sleep, and then cut open his side, took the skin off his lungs, and closed it up again. He went to France in company with this doctor, and while there, the doctor died suddenly in a church. He went to his boarding-house, and threw his watch and bracelets into a large trunk, which was lined with diamonds, and which his father had given him when he left home. He put on a common suit of clothes, and threw himself on the bed: when the officers came in, to seize the property. He said one of the trunks was his, but as he had on a common suit, they would not believe him, although his name was in full on the top of the trunk. They said he was but a slave of the doctor's. Two young ladies came in and told them that the trunk was his—they would not believe them, but took the trunk. The ladies gave him $100 to return with; he heard he had a friend and relation in Boston, and as there was no ship going to sail for Mexico, he sailed for Boston. At that place he found that his relation had been lately married, and had taken his wife to Mexico to see his relations. He heard there that he had a friend at Joseph Bonaparte's, and he was coming to see him, because he would help him. He said he had walked from Philadelphia that day. The day but one after that, ma and Mr. Ash went with him to Bonaparte's at pa's request. They got home early in the evening. A few days after, they went to Philadelphia with Mary Ann Palethorpe. I don't recollect when they came back—I think it was on the same day. Pa wrote a letter to his father, and ma wrote one to his mother. I don't recollect how long this was after he came. On Sunday ma went to Philadelphia with Lino, Mr. Ash, and William, and staid a day or two—they returned on Monday evening. I did not hear what my father said. Ellen Shaw then lived with us. Ellen was eating her dinner, and pa called her away from the table to speak to her, but I don't know what he said. I don't recollect that Fanning was there—I think he was. I don't recollect that my mother ever was absent three days with Lino. I don't recollect what was said when they returned from town after they went on Sunday. I don't recollect that my mother ever went to town with Lino, without another person. Lino came from town one day, I don't recollect what day it was; he came in crying, and went into the parlour, and sat down on the sofa. Pa came in and sat down on the sofa beside him, and tried to comfort him; repeating several Scripture verses that he had committed to memory. When ma came in, Lino told her he would go to town on Sunday (I think it was Saturday he came home). He went on Sunday with ma, and William, and Mr. Ash. This was the same I mentioned before. I do not remember my father ordering Mina a black suit. Father and Mina were very friendly. I never knew them to quarrel or disagree. I do not know how long it was after this that Ellen went away. It was on Friday evening that pa was taken sick. Before that, I one day went out to the barn; Lino stood leaning against the barn, crying. Pa was there, and asked him what the matter was. He said he was distressed, because he did not know where he could make his home, until he received letters and money from his father. Pa told him he could stay with him until that time. A short time after, Lino was walking behind the shed. The next morning he told, that as he was walking there,

he heard a voice saying, "Linetto—Linetto—Linetto!" He said it sounded like his mother's and youngest sister's voices—their voices were very much alike; and in a short time he should hear of one of their deaths. This was before he came home with the news of his youngest sister's death. In a short time after this story, Lino went, I think, to Philadelphia (after he had got his black suit), and when he returned he said he had heard his sister was not dead, as a friend of his from Mexico had seen the family, and they were all well.

My father took sick on Friday evening. At dinner (that day) we had veal, boiled pork, and green peas—I think the veal was baked. My father, mother, Lino, Mr. Forman, sister Mary, and Mary Ann Palethorpe were at dinner; I was not at the table myself, I was reading in the room where they ate. Lino had been to Philadelphia the day before; he went by the steamboat, and returned, bringing a letter from the consul to pa, stating that he and his mother and two sisters would be out there on Saturday. At supper (on Friday) Pa eat very heartily of smearcase and cold pork. I was sitting in the room, but not at the table. Ma and pa, Mr. Forman, Mr. Ash, Lino, Miss Palethorpe, and sister Mary were at the table. Pa handed the pork to each one of them, said it was nice, and told them to try it; they all refused. I awoke up that night, a few minutes after pa was taken sick—I was in the same room—I slept there. Ma went to get the peppermint, and she could not find it. My father puked violently by spells that night. On Saturday ma would have sent for the doctor, as Mr. Fanning was going that way, but pa said that the doctor would only give him medicine, and he had cholera morbus drops in the house, which he would take. Mina went on Sunday morning for Dr. Phillips before breakfast. The doctor came not long after breakfast. I came in the room—he ordered chicken soup, and said that pa could take a little chicken, not much. He said the soup would be good for him, he might eat plenty of it. On the same day (Sunday) ma made him a little rice gruel—I helped to pound the rice in a marble mortar. I don't recollect who carried it up. On Monday, the chicken soup was made in the kitchen; the chicken was got at Mr. Boutcher's. I don't recollect when the chicken was got, I think on Monday. Mary carried the soup up to my father—I was with him at the time. Mary went down-stairs again, and I staid with him. Pa tasted the gizzard, but it was tough—he used to be always very fond of the gizzard when he was well; he gave the rest to me, and I ate it. Pa soaked the cracker in the soup, and ate it with the chicken. He ate only a few spoonsful of the soup, but he ate very heartily of the chicken. I ate some of the soup myself. I carried it down-stairs, chicken and soup both, and set it on the kitchen table. The neck, wing, and part of the back of the chicken was left. As I was going through the dining room to the kitchen, ma exclaimed, "How heartily your pa has eaten of the chicken, and how little of the soup! I am afraid it will hurt him." I went back up stairs to stay with pa, till they had done dinner. I don't recollect that pa was ever left alone when he was sick. Mary and I took turns attending on him while he was sick. Mr. Bishop attended part of the time. Ma also attended on him. There was a bell in the room. I think Ann Bantom was there on Monday. I don't recollect whether Julianne was gone away or not. I do not remember seeing Ann Bantom in my father's room. I don't remember the day on which my father died. I don't remember the day Mr. Fanning came there. I don't remember the day Mr. Forman went away.

By the Court.—I don't recollect that they used any copper saucepans about the house.

Cross-examined by commonwealth's counsel.—I have told this story to lawyer Brown and to aunt Green—no one else. I have not told it to aunt Green this week, I talked to her about it yesterday—Mary was by, part of the time. Aunt Green asked me about it. I have not talked to my mother about it. Aunt Green asked me when Dr. Phillips first came to Andalusia. I told her it was on Sunday. She asked me how long pa was sick. I told her five days. She did not ask me about taking up the soup—she asked me who brought it down; I told her it was I. I don't recollect that she asked me how much

my father had eaten of it. I don't recollect that she asked me whether I had eaten of it. It was in a blue quart bowl; the soup and chicken were taken up together; the chicken was on a plate, I think. The chicken was whole. Mary brought up a knife and fork with it; pa cut it himself. It was while the rest of the family were at dinner. Mary brought the chicken and soup up-stairs. Mother was not in the room while pa was eating. I don't recollect who cooked the chicken. Father appeared rather better that morning; he was vomiting a little; not much. He was not vomiting when the soup was taken up. He was able to sit in the rocking chair while his bed was making. He did not sit up any more during the day, to my recollection. Mother was eating her dinner when the chicken was taken up. We dined about one o'clock, I think. My father got worse after eating the chicken. He did not get bad very fast. I don't recollect seeing Mina that morning. I don't recollect whether he was sick that day. When I carried down the soup, Mr. Forman, Mr. Ash, Mary Ann Palethorpe, Mary, and ma were there. Nobody was in the kitchen when I took it down. Ma had not then finished dinner. Mary staid with him at breakfast. Mary and I staid with him to wait upon him while ma was busy. Ma was up there several times that day, part of the time waiting upon him, and part of the time sewing. My father was very fond of pork; I think he always ate it when it was on the table. I don't recollect any quarrel between pa and ma about the carriage. On Saturday evening, after father was taken sick, my bed was moved to the next room. I recollect, before Mina came, my father leaving his bedroom and going into another to sleep. I don't recollect why he did it.

I went to Philadelphia with Mina after pa's death; he left me at Mrs. Le Brun's all day. I was going to Baltimore with him to see his friend Casanova, who was very sick. I did not go, because he had a letter that his friend was dead.

I went back to my father's room after taking down the chicken, and staid five or six minutes with him. He had not begun to puke when I left him. I think ma went up when I left him. I saw him again a short time after I had done my dinner; he was not puking then. I saw him that night; he puked once while I was in the room. I don't recollect that Lino had a fit that night. I saw my father on Tuesday; I staid with him at breakfast. I don't recollect seeing him after that day I understood he died of cholera morbus; I heard Dr. Phillips say so on Sunday. I saw the letter from the consul on Friday morning. I heard ma read it to pa. No one has told me what Ann Bantom, or any of the witnesses said in court. My aunt Green did not put her questions in writing. After father's death, mother slept in the spare bedchamber; it was not the room in which my father was in the habit of sleeping. We all slept together; my truckle bed was moved to that room. All the family slept there. My father made his bed sometimes with my help, when ma was from home or unwell. I never heard ma say he must make it. Ma commonly made it. The dining room adjoins the kitchen; they dined in that room that day.

Ma told us she was going to New York, when she went (to be married); she did not tell us what she was going for. After she came from Albany, she talked of going to Mexico, I believe.

Levi V. Vandegrift, fifth witness for defendant, being called to be sworn, was objected to by the counsel of commonwealth, on the ground that he had infringed the order of the court, by being present during the trial.

After an examination into the fact, and some desultory argument, the court said, there was some doubt whether this witness was not the individual who was expressly excepted from the operation of that rule; and he was accordingly sworn.

I live within three hundred yards of Mr. Chapman's; they were my nearest neighbours. They lived there three or four years. Mrs. Chapman was the active person of the establishment. We had a good deal of intercourse. They

lived in perfect harmony so far as my knowledge extends. I live on a farm. I was there once during Mr. Chapman's sickness. It was on the Sunday afternoon before his death. I was passing by; Mrs. Chapman hailed me; I rode up, and went in to see him. I inquired after his health; he told me he was better. He said he called me, to state to me, that in case of his death, he did not wish his brother John Chapman's family to be made acquainted with his sickness, or invited to his funeral, as the two families were at variance; he did this, so that Mrs. Chapman should not be censured after his death. He had told Dr. Phillips the same, and had sent for Mr. Sheetz to tell him also. I then left him. I saw him no more until after he was dead. They had sent for me. The sun was about an hour high when I went. I saw nothing very remarkable in his appearance. He was a little dark round the ear.

It was Mrs. Chapman's habit to ride out with her pupils. I never saw any impropriety in her conduct.

Cross-examined.—It was three or four o'clock on Sunday when I called to see Mr. Chapman. I could discover no change in him, except that he had more colour in his cheeks than usual. He did not complain. He said he had had a severe attack of cholera morbus, but was better. Mrs. Chapman was in the room; no one else. Mrs. Chapman is said to be an excellent teacher. I never heard any one say they saw any impropriety in her. She was considered a moral woman by all I ever heard speak of her, and she is so in my opinion. I never saw her and Lino riding out together.

Rev. George Sheetz, sixth witness for defendant, sworn.—I am pastor of All-Saints church, about three miles from Andalusia, near Holmesburg. Mr. and Mrs. Chapman held a pew in that church. Mr. Chapman was occasionally there, and Mrs. Chapman very frequently. It was generally attended by her pupils. On the Sabbath on which Mr. Chapman was ill, I performed divine service in Whitemarsh. Dr. Delancey (provost of the University of Pennsylvania) performed in my stead. There was a note directed to me, left on the desk, requesting the prayers of the congregation to be made for Mr. Chapman, in consequence of his severe illness. Dr. Delancey did not open the note. It is not usual in our church to request the prayers of the congregation, except in cases of extreme illness. I attended the funeral. He was buried not far from the church, on the north side. As mention was made of the unusual preservation of the body, it occurred to me that there were three things that might have contributed to it. In the first place, the declivity of the ground; 2d, the nature of the soil, sandy and dry; and, 3d, to which I should attach the most importance, the depth of the grave. I had found fault with our sexton for digging his graves too shallow; in consequence of this complaint he went into the opposite extreme, if such it may be called, and digged them unusually deep. This was the case in this instance. I have been at Mr. Chapman's occasionally. I never saw any thing that gave me reason to suspect the want of harmony in the family.

Cross-examined.—The note left on my desk was signed by Lucretia Chapman. I live eight miles from Chapman's. I doubt whether I was there from the middle of May till Chapman's death. I cannot say that I have seen Mr. and Mrs. Chapman together at church since Mina came there. I cannot say whether they lived harmoniously after that time. I believe Mrs. Chapman was in mourning at the funeral. I saw her at church after the funeral; she was dressed in mourning. I had conversation with her calculated to console her under her affliction. She appeared much distressed. Sandy soil would absorb water more readily than clayey. The upper surface of the ground was clayey; three or four feet below, it was sandy. I have rather felt a reluctance to leave here till I have accounted for the difference between Mr. Chapman and his brother. When Mr. W. Chapman purchased the place at Andalusia, Mr. John Chapman suggested to me the unpleasant alienation of affection between the two families. Mr. Chapman did not state that he was prevented from seeing his brother at his death. Mr. W. Chapman

was at Mr. J. Chapman's funeral; his family was also there. Mr. J. Chapman died about three months before William. Some of J. Chapman's family were at William's funeral, but arrived very late.

I deem it justice to say, that I find, by examining my record, Mrs. Chapman's name on my communicant list, I think for 1826: since when, if any thing had occurred in the neighbourhood calculated to impeach her character, I should have been informed of it. Mr. Chapman was labouring under an affection of the head when he attended his brother's funeral.

I don't think it surprising that spots should have appeared on his face after death. The affection of the head was in the neighbourhood of the ear. I think he mentioned to me at his brother's funeral, that it was with great difficulty he attended, on account of the complaint in his head. I don't remember that he had palpitation of the heart. Mrs. Chapman communed in the church after her husband's death. Her children and pupils, when examined around the altar, were found remarkably well instructed in the catechism.

Joseph Magoffin, seventh witness for defendant, sworn.—I knew Mr. Chapman first in 1817, and Mrs. Chapman some time in 1818, when they were married. I was his first pupil. I had a bad impediment in my speech at that time; I went to him to be cured. I remained under his care about a year. About a year after that he went out of his house and went to Mrs. Chapman's. She was a teacher. Her maiden name was Winslow. I have been acquainted with them since that time to the present; have visited them—but not since they removed to the country. They lived harmoniously together. Her general character was good; all that I heard against her was, she had a high temper; but I never saw any thing of it. They were both highly moral. She became more and more the active personage of the establishment.

Cross-examined.—Her character appeared as good since she left the city as before. I have seen her five or six times within the last three years. I saw her once, half an hour, when she called to see me; that was the longest time.

William M. Gouge, eighth witness for defendant, affirmed.—I became acquainted with Mr. and Mrs. Chapman in 1826. I was well acquainted with them from that time until they went to the country. I never saw any impropriety in Mrs. Chapman. I am not acquainted with many persons who knew her; her repute was good, except that I heard she was passionate. They lived harmoniously. I was repeatedly at their house, and attended their examinations. Mrs. Chapman was the active personage of the establishment. She has come to my office with her pupils riding with her. I have seen her six or ten times since she left the city, generally on business. My opportunities of knowing her general character were equal to those of knowing that of any other so near the city.

Henry Korn, ninth witness for defendant, sworn.—I was acquainted with Mr. and Mrs. Chapman in September, 1826. I knew them intimately. My daughter was a pupil of theirs for six months. Mrs. Chapman seemed to be the active one of the firm. Her character was more than moral; I thought they were a very religious family. They lived more harmoniously together than people usually do. I have no hesitation in saying her character is good.

Anthony M. Buckley, tenth witness for defendant, affirmed.—I became acquainted with Mr. and Mrs. Chapman in 1825 or '26. My sister had a son who had a very great impediment in his speech, as a pupil there. I was a pupil a few weeks myself. They lived in Pine-street near Seventh. I was frequently at the school. I never observed any thing but the most perfect harmony at that time. The generality of persons have spoken well of Mrs. Chapman. I never heard her moral character impeached. She appeared to be the active person.

Cross-examined.—In 1827, I heard her character impeached on account of

ill temper. I have known her since she left the city. Mrs. Chapman showed me letters from Mr. Chapman, addressed in the most affectionate terms.

(Mr. Magoffin was here called again to prove the handwriting of Mr. Chapman in a letter to James Fasset, Esq. Mr. Brown then read the letter, which consists of a bill for boarding and tuition, amounting to $51 25, and underneath, the following note:)

"*Dear Sir*,—As it is agreeable to Mrs. Chapman for your son Huson to remain under her care a quarter as you requested, I take the liberty of handing you the bill as spoken of, the payment of which to the bearer, Don Lino Amalio Esposimina, will oblige, Dr. sir, yr. hble. servt.

"W. CHAPMAN, FOR MRS. C.

"*Andalusia*, 15*th June*, 1831."

Francis C. Labbe, eleventh witness for defendant, sworn.—I knew Mrs. Chapman a year before she was married, when she was Miss Winslow. I have been well acquainted with Mr. Chapman. I have been at their house frequently. I taught dancing in their school for four years. They lived very happily together as far as I could see. My daughter was there as a pupil, nearly two years. My acquaintance continued until they removed to the country. Previous to my daughter's going to her school, I made inquiries as to her character. Her character is good.

Joseph Dixon, twelfth witness for defendant, sworn.—I reside in Philadelphia. I have resided in Mrs. Chapman's neighbourhood. I have known her between twelve and thirteen years. I knew her husband. Three of my daughters were pupils—they continued two years. They lived in harmony as far as I know. I have seen her but once since she removed to the country. There was interchange of visits between our families in Philadelphia. Her general character was good.

Deposition of William Duane, Esq., thirteenth witness for defendant, read. —William Duane, one of the aldermen of the city of Philadelphia, being duly sworn, says, I was acquainted with Mr. and Mrs. Chapman. I became acquainted with them in 1826, and have known them ever since. At that time they lived in Pine-street, about two hundred yards from my residence; they lived there several years. I have been at their house twice, and they were frequently at my office. I never saw any thing but the utmost harmony and cordiality; indeed, I thought exemplarily so. They were very respectful towards each other, and there was always a sympathetic kindness between them. She held, as well as himself, a highly respectable character, and was entirely a lady in her deportment. She always appeared to be the most active personage of that establishment, which was a boarding school. I had no reason to think that her character was not entirely unexceptionable, although, from my local and official situation, I had every opportunity of hearing her character fully and constantly.

Being cross-examined, says,—My opportunities of knowing Mrs. Chapman's domestic character were limited. My visits to her house were made from curiosity. I never, to my recollection, took a meal in her house. At the outside, I was never at her house more than three times in my life. I knew Mr. and Mrs. Chapman about two years before they left the city. I have not known them since.

Friday morning, February 21.

Miss Jane Vallance, fourteenth witness for defendant, affirmed.—I have known Mr. and Mrs. Chapman for many years, but have not had very familiar intercourse with them. My sister and I were pupils of theirs; I cannot say how long. I have not been intimate enough to say how they lived to-

gether. I considered Mrs. Chapman's moral character good before this affair. My sisters have been at school at Andalusia. I reside in Philadelphia.

Miss Catherine Vallance, fifteenth witness for defendant, being affirmed, testified that she and several of her sisters had been pupils of Mrs. Chapman; two of them since the removal to Andalusia; and that the general character of Mrs. Chapman was very good up to this affair.

William Shaw, sixteenth witness for defendant, being affirmed, testified that he had known her first about nineteen years since, but had never visited her house since her marriage; and that her general character was good while he knew her.

Miss Eliza Vandegrift, seventeenth witness for defendant, affirmed.—I have known Mrs. Chapman ever since she lived in our neighbourhood. We were near neighbours, and interchanged visits with each other. I have been at her house for a week at a time. I was there two or three days at the time of the funeral. Mr. and Mrs. Chapman appeared to live very agreeably together. Her general moral character was good, up to the time of this disturbance. I never observed a want of kindness between them. I have been at the house since Mina came there.

Cross-examined.—I took tea with Mrs. Chapman after the funeral. I did not observe any thing peculiar in her conduct. She was in the room with Mina. I don't think she appeared to be sad. I did not hear her laughing that afternoon. She told me that Mina had a fit after their return from the funeral, and that he was in bed. I believe she went to see him. I don't recollect whether he was at the supper table.

Re-examined by Mr. Brown.—We were all in the room with Mina, before he had the fit. He went to bed then, and I did not see him afterwards. The widow of John Chapman took tea there.

William Vansant, eighteenth witness for defendant, affirmed.—I live in Warminster township. I have known Mr. and Mrs. Chapman about five years. I was a pupil of theirs. They lived in Pine-street the first time I was with them—the second time in Andalusia. I remained at Andalusia eleven weeks. Mrs. Chapman was the active person in the establishment. I never saw any thing unkind in the conduct of Mrs. Chapman towards Mr. Chapman. They lived, generally, harmoniously. Her general moral character was very good. We had prayers and reading in the mornings.

Cross-examined.—It has been two years since I was at school. I have only seen her twice since that time; the last time was in May last.

Mr. Brown produced and read three certificates. The first, signed by *Hetty G. Dillingham*, dated Brewster, Mass., Jan'y. 9, 1832, certifying that she resided with Mrs. Chapman from two to three months in 1818, and that "her deportment toward her husband was that of a dutiful and affectionate wife."

The second, signed by *Mercy Baxter*, dated, Dennis, Mass., Jan. 9, 1832, certifying that she was a scholar and assistant in the school of Mrs. Le Brun, in which Mrs. Chapman was a teacher, in 1814 and 1815, and that Mrs. Chapman "then sustained an unblemished character."

The third, signed by *Louisa Baker* (a niece of Mrs. Chapman), dated Dennis, Jan. 9, 1832, certifying that she had resided with Mrs. Chapman between four and five years, that Mrs. Chapman "was tender to her husband," and that "they both seemed to enjoy an uninterrupted happiness in each other's society." [The certificate does not specify the time of her residence with that family.]

The evidence here closed on the part of the defendant.

Ellenor Boutcher, for the prosecution, sworn.—The chicken was sold on Sunday, to Mr. Chapman, about eleven o'clock, in the fore part of the day.

Cross-examined.—I don't recollect any thing about the death of the chickens, nor when they died. I never had any ducks to die so before. I said,

I supposed fish water would kill them, because they were an easy thing killed.

By the Court.—My husband said he thought the ducks were poisoned. I did not think any one would poison them. There had been a complaint of my fowls running over there. Mrs. Chapman bought a pair of chickens of me.

Question by Mr. Ross.—I have never known ducks to die as these died.

By defendant's counsel.—I examined one of the ducks, and found its craw was full.

Levi D. Vandegrift called again for the defendant.—Last spring a year I had a flock of ducks, and I had a mason building a platform; those ducks came and fed of the lime water, and I think all died but one, in the course of twelve hours. These were about a week or two old. I think there were masons or carpenters at Mr. Chapman's in the month of June.

John A. Hellings, affirmed, for defendant.—I had, about four years ago, upwards of sixty ducks, of various sizes. I think we lost them all in the course of forty-eight hours.

Cross-examined.—I have known chickens to die suddenly. We laid the death of the ducks to salt pickle, and found salt in their craws. I have known them very frequently in wet weather to fall over.

Mr. M'Call here read to the court and jury from the following medical authorities: Manual of Poisons, by Montmahou, pages 8, 11, 13—15, 17, 21, 38, 50. John Gordon Smith's Hints, 11, 12. Principles of Forensic Medicine, 8, 98. Christison on Poisons, 184, 108, 109, 245, 92, 232. Cooper's Medical Jurisprudence, 424, 426. American Journal of Sciences, No. 9, 1829, 246, 242. Beck's Medical Jurisprudence, Vol. 2, 218. Orfila, 399. North American Medical and Surgical Journal, No. 23, July, 1831, 73. Paris and Fonblanque, 155, 158, 159. Medical Reporter, No. 22. North American Medical and Surgical Journal, No. 20, p. 302. 3d Paris and Fonblanque, 295. American Journal of Medical Sciences, No. 12, p. 523. Dr. Yellowley's Transactions, Vol. 4, p. 410. North American Medical and Surgical Journal, No. 19, July, 1830, p. 203.

Miss Sarah Gando sworn, for defendant.—I have lived twenty years in the neighbourhood of Mr. Chapman's residence, about a mile off. I have occasionally staid at her house, never more than a week at a time. Mr. and Mrs. Chapman lived harmoniously. I never saw Mina, and don't know that I was there while he was there. Mrs. Chapman was the active personage of the house. Before this disturbance, I never heard any thing bad of Mrs. Chapman. They had family prayers twice a day. I have not known her to ride out with her pupils. I was at Mr. W. Chapman's at the time his brother died. He told me he thought he was treated very unkindly by his brother's folks; they did not permit him to see him during his sickness.

John Thompson, affirmed, for defendant.—I was three months at Mr. and Mrs. Chapman's school, at Andalusia. I left there about a year ago. They lived harmoniously, as far as I know. I can't say what was Mrs. Chapman's general character with regard to deportment before this circumstance. I live upwards of eight miles from the house.

Mr. Willis H. Blayney came in to-day upon the attachment, and was now offered to prove an important point, which Mr. Ross, in his opening speech, introduced to the attention of the jury, as a part of the evidence to be brought out by the prosecution. The court decided that it was too late to do so; and directed him to pay the costs of the attachment. Mr. Blayney filed an affidavit, previously to this direction of the court, assigning as the reasons for his absence, the illness of his child, and the urgency of his official duties, as high-constable of Philadelphia. He was then called as a rebutting witness, as to the character of the defendant.

I believe I am acquainted with the general character of Mrs. Chapman.

From 1818 to 1829, I have always considered her character good. Since then, I have considered it bad; gradually getting worse. I became a police officer in 1829.

Cross-examined.—I have heard bad of her from 1829. I have not said within the last week that I knew nothing bad of her; not in those exact words. She lived in my mother's house, and behaved herself remarkably well. My sister has taught music in her seminary for several years. I have said, that if the prosecution expected me to give her a bad character, they would be mistaken; that is, to my personal knowledge, I have never seen any thing but what was right. I have visited at the house of Mr. and Mrs. Chapman. They lived very happily together: I never heard any thing to the contrary. When I speak of her general character, I speak of police report. I can't say I ever heard a good police report. I can't say that Mrs. Chapman said Lino went to Boston; but from what she did say, I wrote to Boston and New York. I was the first that started this proceeding.

The letter that was sent from Washington, written to Mina, was what first induced me to move in it. I persevered more strongly in it, *in consequence of some matters I had heard of Mrs. Chapman's character*, which I heard from the police. (Mr. Ross objected to any further examination upon this subject.) The report of the police was perhaps a year before this affair. I think I heard it from Mr. M'Lean and Mr. Garrigues. I call that general character.

By the Court.—I never heard any thing against her, except from the police. If I were to find stolen goods in a person's house, or if I knew that counterfeiters had been taken in that house, I would say the owner of the house had a bad police character.—(*Testimony closed.*)

Judge Fox charged the jury as follows:—

Gentlemen of the jury,—If, from any cause, even the slightest prejudice existed in your minds against the prisoner at the bar before the solemn duty which you are now performing was imposed upon you, I am sure that you have divested yourselves wholly of it, and that you are prepared to investigate and determine the cause upon the evidence before you.

It did not need the exhibition of her poor little children to awaken our attention to the cause, or excite our compassion for the situation of the prisoner. The facts which are proved, and which must govern the decision, are of a character so extraordinary, as necessarily to arouse our minds to the keenest regard to the deductions to be drawn from them; and whether the miserable state to which she is now reduced be the offspring of her follies, as she herself alleges, or of the most shocking of all crimes, as is the allegation of the prosecution, it is impossible to regard her terrible condition without deep commiseration. But for us this is no question of feeling. A duty is prescribed by the law, and we are not at liberty to indulge any sentiment inconsistent with its strict performance. Let us then seriously incline our minds to the most careful investigation of the grave matters in proof before us, that we may be enabled conscientiously to perform the solemn duties enjoined upon us.

But although we may not suffer sentiments of mere compassion for the prisoner at all to influence us in our examination of the cause, yet we are bound to approach it with hearts mercifully inclined, because, in a very important sense, mercy is a part of the law. You must start with the *legal* presumption that the prisoner is innocent, and that presumption must continue until her guilt is satisfactorily *proved.* This is the *legal* right of the prisoner. It depends not on the circumstances of any particular case, but is the common right of every one accused of a crime. The law covers the prisoner all over with an armour, that can only be pierced by proof of guilt. It matters nothing, therefore, what rumours you may have heard, what publications you may have read, what suspicions you may have entertained, or even what

opinions you may have formed, in relation to the prisoner, before you were sworn in the cause.

The law declares her innocent, unless the proof you have heard on her trial satisfies you of her guilt.

The mild spirit of our institutions has abolished capital punishments in every case except that of wilful, deliberate, and premeditated murder. The commonwealth does not seek blood She unwillingly receives the victim from the hands of justice; and, when the sacrifice is demanded, the whole community is horror-struck. There is not much danger, therefore, in Pennsylvania, of unjustifiable convictions in capital cases. Indeed the belief is, that even where the facts demand it, it is almost impossible to procure a capital conviction. Yet, I will say, I have never known a verdict of acquittal which I did not think justified by the evidence, although I may have believed that it would have warranted conviction.

Much has been said upon the evidence in this cause, as being presumptive, and not direct or positive; and many cases have been read and cited, showing the conviction and execution of persons in England of capital felonies, whose innocence afterwards was made apparent. These arguments and these cases only prove, that all human evidence, whatever be its character, positive or presumptive, like every thing that partakes of mortality, is fallible. Infallibility belongs to Omniscience alone. We must use human evidence for the purpose of arriving at any conclusion whatever, respecting a question of fact. If the mind is fully satisfied, we must act upon such conviction, although, from the uncertainty of all mortal affairs, mistake may be *possible;* otherwise the business of the world must stand still. The mind may be as completely convinced by presumptive as by positive evidence, and possibly may not arrive at the truth from either. Many cases might be supposed in which presumptive evidence would be more satisfactory than some degrees of positive; for there are as many degrees of positive evidence, as there are shades of character among mankind. Suppose two witnesses were to charge a man with murder, and swear positively that they saw him commit it. This would be positive evidence. Suppose, in his defence, he should prove that these witnesses were so infamous, that no reliance could be placed upon their oaths—that he himself was a man of the most upright character—that he had no reason whatever to destroy the person murdered, but that every motive of feeling and interest would probably induce him to preserve his life. Suppose it to be further apparent, that the witnesses themselves would derive great benefit from the death of the person murdered, and from that of the person they had charged—that there were many circumstances to induce strong suspicions that they were the real murderers. This defence would be presumptive evidence, but it is manifest that it would overturn that which was positive. The true question therefore is not what is the kind of evidence in this cause, but it is what is the *result* of it in your minds. If it has failed to *satisfy* you of the guilt of the prisoner—if your minds are not *convinced*—if they vacillate and remain *in doubt* as to this question, you must acquit her, be the character of the evidence what it may, positive or presumptive, because the law regards her as innocent, so long as you have reasonable doubt of her guilt. But if the result of the whole evidence in the the cause *satisfies* you that she is guilty—if you are *convinced* of that fact—if no *reasonable* doubt remains upon your mind, it is imperatively your duty to convict, even if the character of the evidence be *wholly presumptive.* Such is the law.

In capital cases, the counsel for the prisoner frequently deem it their duty, not only to scan the evidence with the closest scrutiny, but also to comment upon the character, the motives, and the conduct of the witnesses, with a freedom that would not be tolerated, under similar circumstances, if it were attempted on the part of the prosecution. So far as I am able to judge, we may place great confidence in the integrity of every witness in this cause. I have seen neither disposition nor motive for any one to speak falsely, or to

conceal the truth, excepting only in the poor little daughter of the prisoner. She, no doubt, had the strongest of all possible feeling, but who that heard and saw her can doubt her innocence of any intentional mistatement or concealment.

Ellen Shaw and Fanning have been assailed with much severity, but, as it strikes me, entirely without reason. Why should they testify falsely against the prisoner? The motives attributed to them by the counsel, even if they exist, are wholly inadequate to impel them to such horrible perjury.

Even those gentlemen, eminent in science, who, from the most public spirited motives, have afforded the commonwealth their efficient aid in the investigation of this important question, have not escaped animadversion. It is essential to the public interest that they should know that a due sense is entertained of their services. They have sacrificed much valuable time, and much of comfort, with the most honourable disinterestedness; and, if they are to suffer, in the slightest degree in reputation, how can they, or other gentlemen of similar attainments, be asked to render us assistance hereafter. We have thought it proper, therefore, that the acknowledgments of the county should be thus publicly tendered to them for the important services rendered to us in this investigation.

The charge against the prisoner is murder *by poison*. Therefore there can be no question as to the *grade* of murder, whether of the first or second degree, inasmuch as, by the law of Pennsylvania, all murder perpetrated *by means of poison* is murder in the first degree.

The questions for consideration are two.

1. Did Mr. Chapman die by poison?
2. If he did, was Mrs. Chapman a voluntary agent in thus procuring his death?

As to the first question, there is much evidence. Indeed, all the evidence in the cause may be said to have a material bearing upon it, because all that may go to show that Mrs. Chapman procured his death, will serve to corroborate any other that will show his death by poison.

The first and most important evidence of the death by poison, and without which the prosecution could not be for a moment sustained, is that derived from the chemical examinations, and the opinions of the chemists. Dr. Mitchell and Mr. Clemson, the gentlemen who made these examinations, have given us, in detail, their mode of proceeding, and their opinions as to the results. It is obviously of great moment, that we should be able implicitly to rely upon their integrity and skill. Who and what are they? Dr. Mitchell is known in Philadelphia, not only as a physician of great eminence, but as a professor of chemistry, whose attainments in this science, are second, perhaps, to none, even in that great city, where chemical knowledge is in advance of any other place on this side of the Atlantic. His skill, his estimable character as a man, and the great caution he exhibited in giving his evidence, will authorize you to place the most unlimited confidence, not only in the facts he has proved, but also in the opinions he has given.

Mr. Clemson is comparatively a young man, but his opportunities of acquiring chemical knowledge have been very rare, and seemed to have been fully improved. After studying the science several years in this country, he went to France, and has been assiduously employed, for about five years, in the practical laboratories of several of the most eminent chemists of the age. It is true, as is said by the defendant's counsel, he is mercurial, and he did not evince sufficient caution in giving his evidence. But his integrity of pur pose has been most apparent, and his skill is unquestionable.

These are the gentlemen who were selected to make the examination of Mr. Chapman's stomach. Upon their evidence, as I have said, this part of the cause, at least, mainly depends.

What did they do? Do not let us be deterred from a strict examination of this part of the case by the difficulties which it has been suggested we

labour under from the want of chemical knowledge. The question now is, did Dr. Mitchell and Mr. Clemson detect arsenic in the stomach of Mr. Chapman? This, like any other fact, when questioned, must be proved by evidence. Now, what has been detailed to us for the purpose of supporting the affirmative of this proposition?

The stomach, as taken from the body by Dr. Hopkinson, was subjected to a chemical process whereby all animal matter was destroyed. This mass was then reduced by evaporation, and what remained was divided into three parts, and these were put into three several glass tubes. The object of this was, to test each of these parts, and thus have the opportunity of several experiments.

The flame of a spirit lamp was applied to the end of the tube in which the matter was, and if arsenic were present, it was expected to be detected in two ways.

1. By reduction (as it is called) of the metal. That is, that the metal would be thrown off in a gaseous form, and be condensed on a superior part of the tube.

2. By the odour said to be peculiar to arsenic. This is evidence of the presence of the metal, because caused by the metal itself. Clearly proved to exist, the presence of the metal is taken for granted by chemists for all ordinary purposes.

It is certain that no metal was *reduced*—that is, no metal was visible to the eye in metallic form. But it by no means follows that you may not believe that the metal was present, I mean even by chemical proof. Indeed many cases might be supposed in which a jury would not be justified in rejecting chemical proof of the existence of arsenic, although the metal was not reduced. Suppose what are called the liquid tests were tried, and gave the characteristic appearances of arsenic, and that the precipitate being subjected to the action of fire, gave out the odour, and no other test attempted, this would be strong evidence for the consideration of a jury, and might or might not settle the question depending on the other circumstances of the case. It might not be as conclusive proof as if the metal had been made visible to the eye, but, as I have said, it would be evidence of the presence of arsenic on which a jury would be justified in acting.

Then, in this case, what degree of evidence has been obtained from the chemical examination of the existence of arsenic in the stomach of Mr. Chapman? This is the true question.

The reduction of the metal was attempted, and the chemists *failed to effect it*. So far the presumption is, that no metal was present, and so far, I suppose, the evidence conclusive, that so little arsenic was present, as that the liquid tests would not detect it, otherwise it would have been reduced; for, where these tests show arsenic, it may always be detected by reduction. So all agree.

The metal not being reduced, what is the next best evidence that arsenic was present. Is not the peculiar odour that evidence? From what I have learned in this cause, I suppose that it is. Formerly it was considered the best test; but as the science advanced, and the power of reduction was greatly extended, the authorities have discountenanced proof of this sort; Dr. Mitchell seems to think, unreasonably.

Then what evidence have we of the presence of the peculiar odour in this case?

The matter to be examined was, as I have said, divided into three parts, and placed in three several tubes. These were severally, at different times, subjected to the action of fire, and from each of them this peculiar odour of arsenic was given out. Dr. Mitchell and Mr. Clemson both swear that it was the odour of arsenic.

Dr. Mitchell says: "In conducting the experiment, and after these phenomena had been observed, the sealed end of the tube opened, under the action

of the spirit lamp, when Mr. Clemson, who was holding it, turned round and said, 'Is any one subliming arsenic in the room?' The reply was, no. He then called me to examine what the odour in the tube was, and I distinctly recognised what I believe to be the smell of the fumes of arsenic. The tube was subsequently heated at the part where the shining black matter was, and as the tube was open at both ends, a current of air was passing through it, and the arsenical smell was perceptible at the upper end. The other tubes were subsequently, at different times, heated in the same manner, and (with the exception of the accidental breaking of the first tube) the result was the same."—"The arsenical odour is generally esteemed, by high authority on this subject, as a very imperfect test of the presence of arsenic; but as the objections to this test are several, and as it was important for the purposes of public justice that this case should be strictly examined, I tested one by one, experimentally, the objections. The first objection is, that the mixture of animal matter so covers, when it is volatilized along with arsenic, the odour of that metal, that it cannot be perceived. This objection does not apply in this case, inasmuch as it was perceived. Another objection is founded on the alleged similar odour of certain substances, phosphorus and its compounds, zinc, antimony, onions, and garlic. The last of these could not, by any possibility, have been present in the matter that was sublimed by me. Antimony, zinc, and the phosphates, mixed with animal matter and charcoal, were tested in similar tubes, under like circumstances. These experiments were repeated again and again, in the absence of my colleague, Mr. Clemson, without being able to produce the arsenical odour, or any thing that I could mistake for it, unless I actually placed arsenic in the tube. Supposing myself liable to deception, because I knew what was actually in the tubes in all these experiments, I prepared a set of them containing these articles, phosphate of soda, kermes mineral, an antimonial, and some granulated zinc, and placed them while under treatment by a spirit lamp, and in succession, under the nose of Mr. Clemson, who was ignorant of the contents of the tubes. Among the tubes, there was one prepared with arsenic in very small quantities. It was only when the tube containing arsenic was heated and placed under his nose, that he said decidedly, 'that is arsenic.' He hesitated not a moment as to any of the tubes."—"Speaking from authority, I would say, that the chemist cannot speak positively of the presence of arsenic, without finding the metal."

Mr. Clemson says, "The matter contained in the bottom of the tube was so exposed to the lamp, as that the carbon of the lamp should act upon that portion of the arseniate of lime which had not been in contact with the carbon in powder. As I expected, we obtained an odour of arsenic. The second tube I exposed to the heat of the spirit lamp. I was expecting a ring, and the odour of arsenic struck me. I looked round and asked if any one was burning arsenic. On examination I found that the end of the tube was broken, and the odour of arsenic still given out. I called Dr. Hopkinson, and Dr. Mitchell, and the servant, to smell this odour, and they all agreed that it had the odour of arsenic. I know of no substance, which, in my opinion, has the same odour, or which resembles that of arsenic. It is stated, that there are certain substances which give off an odour resembling that of arsenic—certain vegetable substances; but here there were none. Phosphoretted hydrogen is said to have the odour. I have manipulated it, and never found the odour. I account for the smell by the action of the carbon in vapour from the lamp coming in contact with the arseniate of lime, not already decomposed. If, in the examination of any mineral substance, I had discovered the same results, I should have said there were traces of arsenic. I believe that was the odour of arsenic that I smelled."—"Authority goes to say, that other substances than arsenic produce odour so like it that one may be deceived. A man can smell the shadow of a shade of arsenic I cannot say what quantity will give the odour."—"I have never been de

ceived when I have found arsenic by the blow-pipe, in detecting it afterwards. It might have been arsenic, but not in sufficient quantity to be weighed, and then we apply the term, 'traces of arsenic,' in the description of the analysis of the mineral. It is the metallic substance that gives the odour."

This is the evidence of the existence of the peculiar odour of arsenic in the stomach of Mr. Chapman. You will observe, that here in searching for arsenic, by three several experiments, on different parts of the same matter precisely the same result was produced, viz: the peculiar odour of the metal; of course, the existence of the odour cannot admit of doubt.

Then taking the opinions of Dr. Mitchell and Mr. Clemson that no other matter was present that could have produced the same odour, you have the opinion of the chemists, that arsenic was found in the stomach of Mr. Chapman. Unless these gentlemen have been deceived, under circumstances in which they seem to think deception almost impossible, arsenic was detected, and you, as jurors, will be justifiable in drawing that conclusion, and acting upon it. Thus, if you make this deduction, you have the proof by chemical tests, and the opinions of the chemists, that arsenic was in the stomach of Mr. Chapman in support of the position that he died by poison.

In support of this deduction, there is much corroborating evidence in the cause, a summary of which I am about to present to you for consideration.

1. *The peculiar smell of the stomach*, proved by Dr. Hopkinson and Dr. Mitchell, and the extraordinary fact, that another stomach into which a small quantity of arsenic was placed, and remained a considerable time, threw off precisely the same unusual odour.

This, by itself, would weigh nothing; but as a coincidence, it is well worthy of consideration, the more especially, as Christison speaks of a peculiar odour from a body dead by arsenic.

2. *The preservation of the body*, and more especially, *the peculiar dryness* of the small intestines.

The soil in which the body was buried was very favourable for its preservation, but the fact that it was in a remarkable state of preservation is certain. Dr. Hopkinson says that the small intestines appeared, as he supposed they would if they had been *hung up to dry*. This extraordinary appearance alone would be of little moment, but acquires some importance in connexion with the other facts in the cause.

3. The symptoms of the disease, and the opinions of the attending physicians.

His attending physicians were astonished at the fatal result of his disease. Dr. Phillips says, that at the time, he was not satisfied as to the cause of his death, and that he could not account for it; and Dr. Knight speaks to the same purport.

Cholera morbus did not satisfactorily account to them for his death, although no suspicion of *foul play* then existed, yet the symptoms and death alone excited their astonishment, and neither are able to account for it.

The symptoms, although each one may be referable to natural causes and a death by cholera, all agree that the whole are such as probably would precede death by arsenic. Take the symptoms of such death as described by Dr. Togno, the medical witness of the defendant, and compare them with those which are proved to have existed in Mr. Chapman's case.

Dr. Togno says, the general symptoms of poisoning by arsenic, are "violent vomiting, one, two, or more hours after taking the poison—a constriction of the throat, pain and burning in the stomach, great lassitude, disabling the patient almost from moving after the vomiting has continued some time, thirst—purging follows. The circulation is slow, and participates in the general prostration of the system. Mr. Chapman had no symptom that a man would not have had who died by arsenic."

4. The opinions of medical men founded upon the *post mortem* examination, and the description they have had of the symptoms.

Dr. Hopkinson says, that death was caused by the action of some violent substance upon the stomach.

Dr. Coates says, "from what I saw, and the evidence of Drs. Phillips, Knight, and Hopkinson, I am of opinion that Mr. Chapman died by the action of some corrosive poison, or irritant poison, probably of an arsenical character."

Dr. Mitchell, after giving his reasons in detail, says, "I am unable, after a careful and considerate view of the whole ground, to resist the conclusion, that Wm. Chapman died because of the presence of arsenic in his stomach."

Thus far I have confined my examination to the chemical proof and medical opinions as to the death by poison, without regard to the other proof in the cause. If you place full reliance upon the integrity and skill of the witnesses, you will be justifiable in considering their opinions as proof of the facts upon which they are given.

But in corroboration of, and to be taken in connexion with the foregoing, there is other evidence of a very important character.

On the 16th of June, Mina bought poison, and that poison arsenic, upon what, so far as appears, was a false pretence.

On the 17th of June, Mr. Chapman was taken sick with his mortal disease, now pronounced by the physicians *to be a death by poison.*

On the 20th and 21st of June, several chickens, and a large number of ducks coming out of the lot of Mr. Chapman, died in an extraordinary manner. *The ducks at the time* believed to die of poison. Now, although ducks are subject to an acute disease, that carries them off suddenly and in great numbers, yet these facts, under the circumstances, are well worthy of consideration.

On Sunday, the 19th, Mr. Chapman was seen by Dr. Phillips. He had recovered from his illness, and was in no dangerous, or even uncomfortable situation. He continued thus till Monday afternoon, the 20th; *then he had all the symptoms of poison by arsenic.*

I have now presented a summary of the evidence of the death by poison, independently of the proof which has been given, showing the agency of the prisoner in procuring his death. But there is much evidence as to this latter question, which is applicable to the former. Indeed, all evidence that will support the position that she was his murderer, will corroborate that which is given to prove that he died by arsenic, for it is certain, that if murdered at all, it was by arsenic. You will, therefore, still keep your attention awake to the applicability of the additional evidence, as well to the question of the death by poison, as to that of her agency in procuring it.

2. Did Mrs. Chapman do the murder, or was she present aiding and abetting?

In presenting this part of the case to you, I at the same time think it my duty to make a point for the prisoner, not made by her counsel; probably because they did not think it prudent.

It is, that suppose Chapman was poisoned, and his wife in adulterous or criminal intercourse with his poisoner, her defence would be exceedingly difficult, even if innocent; for those things which might be evidence only of criminal passion for the murderer, might be construed as evidence of participation in the murder. This, certainly, is a possible case. Therefore, in examining the evidence, take the consideration I have presented along with you; and if the facts and circumstances proved against her can be accounted for on the supposition of criminal intercourse only, without necessarily inferring the murder, you will put that merciful construction upon them.

Did Mina do the murder with her aid, or did she do it with his?

The first question that strikes the mind in the inquiry is, why should she do the murder? What motive could she have for destroying her husband?

The prosecution answer this question by saying, that she was infatuated by a guilty passion for Mina, and an avaricious longing after the boundless wealth of which she believed him possessed, and leagued with him to destroy her husband, for the purpose of unrestrained gratification.

This allegation it is for the prosecution to make out by the evidence. Let us examine it in detail. (The judge here recapitulated those parts of the evidence of Mary Palethorpe, Ellen Shaw, Esther Bache, Ann Bantom, and Fanning, which go to show the improper intercourse between Mina and Mrs. Chapman, and the state of feeling between Mr. Chapman and Mina, and then continued.)

That the prisoner was most strangely infatuated with Mina from the commencement of their intercourse up to the time of their final separation, cannot be questioned. If the testimony of Ellen Shaw is believed, acts utterly inconsistent with innocence are fully made out. If the prisoner did, at different times, kiss Mina, and suffer him to kiss her, and suffer him to rest in her arms singing love songs, it is very strong evidence of criminal intercourse between them. Taking the difference of their ages, the fact that she was a married woman, her infatuation, and the hasty and indecent marriage, ten days after her husband's death, in connexion with those facts proved by Ellen Shaw, and the probability that they were living in adulterous intercourse is very great. That Mr. Chapman believed it is certain, if you credit Fanning or Ellen Shaw; yet, however improper or criminal their conduct towards each other may have been, there is no positive proof of adultery, nor of any thing from which it must *necessarily* be inferred.

It is true that she seems to have had views of going to Mexico with Mina; that she considered her husband in the way of her ambitious or avaricious aspirings; and that she wished him "gone." These things add much weight to the other evidence; and taking the whole together, it is for you to say whether you can draw the conclusion, that adulterous intercourse existed between them. If it did, that fact will be of great weight in the question whether she is guilty of the murder, for it would, with the other facts proved, be very strong evidence of a motive for the commission of the crime.

Supposing her to be an adulteress, or given up wholly to her infatuation, those facts which otherwise weigh little against her may have very great power.

On the 16th of June she was in the city with Mina, *when he purchased the arsenic.* They returned home, and *on the next day*, Mr. Chapman was taken ill.

On the 19th, when Dr. Phillips did not believe he was seriously ill, she wrote a note to Mr. Sheetz, the pastor of All-Saints church, *requiring prayers to be put up for her husband, as if he was in extremity.*

On the same day she calls Mr. Vandegrift to go to Mr. Chapman to receive directions *that J. W. Chapman's family were not to be invited to his funeral.*

On the 19th, Dr. Phillips, believing Mr. Chapman's indisposition to be very slight, ordered chicken soup. This was made on Monday. Ann Bantom saw it made. It was taken by Mrs. Chapman into the parlour where Mina was.

Here it has been supposed that the poison was put into the bowl of soup; but that cannot be. It seems to be impossible that Mrs. Chapman should have put poison into this, to have poisoned her husband with it, and then have placed it on the kitchen table; and suffered it to remain there several hours, exposed to the chance of being eaten by her servants, who dined at the table; or by her own children, whose dining room adjoined the kitchen.

If Mr. Chapman was poisoned, as heretofore I have supposed, I look in vain for evidence to show distinctly *how* he was poisoned. Was the arsenic in the soup? He was taken much worse directly after he took it. If the poison was in it at all, it probably must have been in a portion taken from the bowl; but of this there is no evidence. If, however, the evidence is clear that he was poisoned, his being taken ill directly after eating the soup is strong evidence of the time and manner. From this time his illness run a

rapid course. He suffered much, and requested Fanning to stay with him. Mrs. Chapman did not go into his room but once during the evening, and, although much pressed by Fanning to do so, she refused to send for a physician.

If he were poisoned, the evidence is almost irresistible that the deed was done about the time he took the soup. Who could then have poisoned him? Had his wife a motive sufficient to move her to the commission of so terrible a crime, as well as what she might have deemed a safe opportunity to perpetrate it? I have already adverted to the evidence which precedes his illness, and some facts of no little weight remain to be noticed, which occurred after his decease.

On the 5th of July she is married to Mina in the city of New York. *They separate on the same day.* She goes to Schenectady, he to Andalusia. On the evening of that day she writes him a letter evincing all the extravagance, considering her age and his youth, of a most ridiculous passion. (Letter of 5th July read by the court.) Now when was the courtship of which this marriage was the result, *ten days after her husband's death?* Was it before his death or after it? In either case, what conclusion ought we to draw?

On 31st July she writes him another letter of a very different character. The same infatuation seems still to exist, but all levity is gone. Retribution for her folly or her crime has already overtaken her, and the deep feeling, and, apparently, deeper meaning with which, in the bitterness of her heart she says, "*Believe me, Lino, that God will not suffer either you or me to be happy on this side of the grave*," as well as this whole letter, is worthy your most serious attention. It was written after she was fully apprized that Mina was a villain, and it was manifestly intended for no eye but his own. Take in connexion with this letter, the extraordinary and mysterious power that he exercised over her after it was sent, as proved by her declarations to Ann Smith. She, in the presence of her sister, charged him with some of his villanies, and declared her wish to be separated. He apparently consented, but required a *secret* conference before he went. She granted it to him, and notwithstanding the cruelties which he had practised upon her and her daughters, so strongly complained of in the letter, notwithstanding she must have known he was every way a villain, she returns to her sister, and says, "*Sister, Lino is not an impostor, he is a clever fellow.*"

On the 17th of September, she herself laid before Mr. M'Ilvaine the most conclusive evidence that Mina was an impostor, and guilty of a forgery. On that same evening, a publication in the National Gazette, in Philadelphia, alluded to her as a participator in the crime of poisoning her husband.

On the 19th of September, *she flies*, notwithstanding she was warned by Mrs. Smith, the day before, that it would be evidence against her. Why did she fly? Was it to escape the punishment due to crime, or, as she alleges, the timidity of an innocent woman, who, perceiving that appearances were against her, had not resolution to face them? Of this, you are the judges. Flight may be very strong evidence of guilt, or it may weigh nothing, according to the circumstances under which it takes place. The legal presumption from flight is against the prisoner, and it lies upon her to rebut it.

Much evidence has been given in support of the prisoner's character. A number of very respectable witnesses have fully proved, that, for a number of years, she was much respected, particularly by those whose children had been placed at her school. But all this much weakened, if not wholly destroyed, by the evidence of Blayney, a high constable of Philadelphia, that from the year 1829, her character has been bad, *gradually getting worse*, and that his information is derived from the police of the city.

The evidence of the prisoner's daughter, Lucretia Chapman, has been relied upon, to show that there could have been no poison in the bowl of soup. Without her evidence, I think such would be the presumption, and she is of course strongly corroborated

I now, gentlemen, leave this case with you for your decision. If you are satisfied that William Chapman was poisoned, and that his wife was the voluntary agent, or was present, aiding in poisoning him, the law draws the inference that she is guilty of murder in the first degree, and it is your duty so to pronounce. But, if you are not satisfied with the proof,—if upon the evidence a reasonable doubt exists, whether she be guilty or not,—the law calls upon you to say not guilty.

At nine o'clock, on Saturday night, the jury retired, for final deliberation. At eleven o'clock, the ringing of the court bell announced that they had agreed upon their verdict, which was soon after rendered and recorded in open court —*Not Guilty*.

The defendant was then discharged by proclamation.

LINO AMALIO ESPOS Y MINA,

FOR THE MURDER OF WILLIAM CHAPMAN.—COURT OF OYER AND TERMINER, HOLDEN AT DOYLESTOWN, FOR THE COUNTY OF BUCKS, APRIL SESSIONS, 1832.

On Wednesday morning (April 25th), at nine o'clock, Judges Fox, Watts, and Long took their seats upon the bench, and soon after, the prisoner was brought up and placed at the bar.

On the part of the commonwealth there appeared Messrs. Ross (deputy attorney-general) and Reed. On the part of the prisoner, Messrs. Rush and M'Dowell.

The following named jurors were severally sworn or affirmed:—John Robbarts, sworn; Jacob Stover, affirmed; John Webster, affirmed; Amos Torbert, sworn; Henry Baringer, affirmed; Clayton N. Richardson, affirmed; George Trauger, sworn; Jonathan Ely, affirmed; John T. Neely, sworn; John Headly, affirmed; John Beatty, sworn; Ezra Buckman, affirmed.

The following evidence was adduced on the part of the commonwealth, in addition to that already given in the course of the former trial:

Dr. Phillips.—From the symptoms I observed myself, I am at a loss to say what was the cause of his death.

So far as I recollect, the symptoms were not such as would probably have arisen from arsenic; at any rate as easily reconciled upon that cause as any other. If, upon a post mortem examination, arsenic had been found, I should have considered the symptoms reconcilable. If a small quantity of arsenic had been taken the day before, the sickness would have probably continued. —There was a mystery over the whole occurrence to me. I was not able to reconcile the symptoms with those of cholera morbus, and therefore I inquired of Mrs. Chapman, at the time, in order to discover the cause.— I have often been puzzled with cases in the course of my practice.—Cholera morbus, when fatal, very frequently terminates in twenty-four or thirty-six hours.

Dr. Knight.—I saw Mina in the room on Wednesday night, and, I think, on Tuesday. When I was called upon to prescribe for Mina, I found his pulse natural—nothing out of order—my opinion was, that he had no fits.

Crosss-examined.—I visited him (Mr. Chapman) three, four, or five times on Wednesday. My first visit was on Tuesday evening. Persons having fits generally labour under a disturbance of the system, the pulse being either excited or depressed—there was nothing of this in Mina. At his request (I believe it was), I bled him. I should bleed a person if he asked me to do

so, whetner his pulse required it or not. My opinion at that time was, that he (Mr. Chapman) died of cholera morbus. Considering nothing but the symptoms that were present, I do not feel prepared, at this time, to say what was the cause of his death.—There was no other case of cholera morbus in the neighbourhood.

Benjamin Boutcher.—His (Mr. Chapman's) mouth looked purple. His body seemed remarkably stiff—this was not more than one hour after his death. I had laid out other bodies—I never observed such stiffness before.

Mrs. Esther Bache.—I never saw Mina scowl on any other occasion than on that at the breakfast table.

Mr. Rush objects to receiving declarations of Mrs. Chapman in Ann Bantom's testimony. The declarations of co-defendants against each other cannot be given in evidence. 1*st Phillips*, 76.

Court.—The only difficulty now is, that which arises from the fact that Mrs. Chapman has been tried and acquitted.

Mr. Rush.—Then we are upon terra incognita—the point is a new one. They are not co-defendants, because Mrs. Chapman has been acquitted. They are not now jointly charged. Community of purpose no longer exists now. 1 *Chitty*, *C. L.* 566.

Mr. Ross.—This was an indictment which involved a conspiracy. It does not affect the admissibility of this evidence, that one of the conspirators has been acquitted—and in order to prove this I hold in my hand an authority, 1 *East's Cr. L.* 351,—to show that a person charged as aiding and abetting, may be convicted, even if the principal has been acquitted. The words in the indictment are the same—"aiding and abetting." 2*d Starkie* 403. 2*d Russell*, 570.

This is the declaration of Mrs. Chapman accompanying the commission of the murder, and it is for the court to say whether there has been such a community of action proved as to render this declaration admissible.

Court.—This is not entirely free from difficulty. There is a change of circumstances since her acquittal. Before her acquittal, she could not have been compelled to testify; now she might be compelled to do so (putting aside the fact of her marriage with Mina). That being the case, I think the declarations cannot be given. I have examined into it since last court, knowing it was an important question, and this is the best judgment I can form upon the subject, although I must say it is not entirely free from doubt.

Frederick Fritz, sworn, for commonwealth.—I came on from Boston in company with Mr. Blayney at the time he was bringing Mina. I had some conversation with Mina respecting his marrying Mrs. Chapman, &c. I asked him whether he was married to her. He said he had married her in New York. He told me he had had connexion with her before, during the lifetime of her husband. He said she came to him, and was in his room very often. That is all that I know.—(*Not cross-examined.*)

Willis H. Blayney, sworn, for commonwealth.—I went to Boston after Mina. The first time I saw Mina, was in the jailer's office in Boston. He was called up to state what belonged to him in his trunks: I wished to bring his goods along. He did so, and I gave a receipt for them, before starting. We then proceeded, at five o'clock in the morning, to Providence, in the stage, and from that on home. On board the steamboat, after dinner, he was taken with a fit. A physician being aboard, I got him to see to it. The fit passed off after a short time, and the physician said he did not know what to make of it.

Some time in the afternoon, he wished to make some confidential communications to me. I asked him on what subject? He said on the subject of Mr. and Mrs. Chapman. I told him I did not wish to hear any thing; that he had better keep what he had to himself. A short time after, I saw him in conversation with Mr. Fritz. After they had parted, Mr. Fritz related the same statement to me that he has just made in court. He (Mina) then came

to me, said he wished to talk with me, and said Mrs. Chapman had come to him, and that he had had connexion with her some few days previous to Mr. Chapman's death. We then parted. He (Mina) was taken very sick shortly after, vomiting a great deal (we were then coming down the Sound), and continued so all night. After breakfast next morning, as we were getting into New York, he took me privately aft the boat, and stated that he wished to have a conversation with me in private; he wished nobody else to hear. I told him he had intimated that two or three times to me; that if he would answer me two questions, I would then listen to him. They were these: I asked him whether he had ever been in the piratical service, or whether he had ever been convicted, or in jail? He said he had not been in either. I told him he was very foolish for talking in the manner which he had, on board the boat to strangers. What was stated after that, I beg the court will not press me to divulge; and which I cannot divulge, consistently with my duty as a police officer.

I told him if he would answer me those two questions, that nothing of it should appear against him on his trial, if he was indicted for the murder of Chapman. I told him nothing else.

Mr. Rush objected to the confession being given in evidence, it having been made under the promise of favour. 1*st Phillips*, 86.

Mr. Reed admitted the principle contended for in its fullest extent, but denied its affecting the evidence now offered. This is not a confession of guilt. It is a statement made by Mina with a view of shielding himself. There was no admission of his having participated in the murder.

Court.—Any declaration which a man makes, drawn from him by offer of favour or by threats, no matter to what extent it goes, cannot be given in evidence. This point was recently decided by myself in a case of arson, in Montgomery county. The question, therefore, now is, whether this promise of Mr. Blayney comes within the rule of law.

Mr. M'Dowell read from 2 *Russell*, 643.

Mr. Rush addressed the court.

The court here asked Mr. Blayney to repeat his promise, which he did.

Court were unanimously of opinion, that this was not a confession drawn from the prisoner upon promise of favour.

Mr. Blayney declined making any further statement, until peremptorily directed to do so by the court. He then proceeded, referring to a memorandum taken by him at the time; I asked Mina, whether he had a medicine chest. He said he had, and had left it in Boston jail. I asked him whether he had arsenic in it. He said he had medicine or stuff in it that would kill people, and kill rats. I asked him whether he gave any of the medicine to Chapman. (I would just state that he first told me a sort of story which I could not understand, and then I put the above questions to him, and he answered them as above.) In reply to the last question, he said no; he was innocent. He said that when the woman brought up the bowl of soup, Mrs. Chapman take the soup from the woman; she then put the physic in the soup. I asked him, "Did you see the physic?" He said, "No; she take it from my bottles. After Mr. Chapman take the soup, he get very bad and die. Mrs. Chapman then come, kiss and hug me, and say, Lino, I want you to marry me. I say, no, not till I ask my father. She say, Oh, yes, I love you so much. Then I say, well, when Mr. Chapman get bury, then I will marry you. Then she say, we get marry in New York." This was the first mention I had ever heard about the soup.

Cross-examined by Mr. Rush.—I could not understand him for the first day scarcely; I was obliged very often to make him repeat and explain. I think this was in September.

Dr. Hopkinson.—The inflammation presented the appearance of such an one as would have been caused by some active corrosive substance or poison. My reasons are derived from its intensity, and from its stopping at the com-

munication with the intestine; but, on the other hand, extending into the œsophagus.

Cross-examined.—Inflammation of the stomach is found in fevers, in apoplexy, and in cholera morbus. A violent case of poison might resemble a violent case of cholera morbus. In this case a high degree of inflammation extended all over the stomach, and into the œsophagus. I am not aware of having ever examined a body in which death was occasioned by cholera morbus.

Cholera morbus is very rarely fatal in this country. When it is, it usually terminates in from one to three days, or more.

The symptoms of cholera morbus are, first, a sickness or nausea, with some pain in the belly. This is followed by a vomiting, first, of the contents of the stomach, and then bile, which is also discharged per rectum. Cholera morbus is essentially a purging and vomiting of bilious matter. Sometimes the patient has great debility, weak pulse, and towards the end, cold extremities; those are the general symptoms. Chemical authorities differ in many points. I never before examined a body that had been buried. I should think a person might have died of cholera morbus, and the body present precisely the same appearances after death as in the present case. Authorities are not agreed upon the point, that the reduction of the arsenic in metal, upon chemical analysis, is the only evidence of its presence that can be strictly relied upon.

By the Court.—In the majority of cases of cholera morbus, inflammation is found in the intestines; though this is not invariable. I would not hesitate to say, from what I have heard of the symptoms, that Mr. Chapman could not have died of apoplexy.

Mr. Durand.—I have studied chemistry, which is closely connected with my business. Arsenic has a distinctive odour. I do not think I could be mistaken in the odour of arsenic, unless the quantity were too small to produce a distinct odour. If an experienced chemist had detected the odour, I should, for ordinary purposes, have relied upon it as an evidence of the presence of arsenic. I think a well-defined smell would be the best single evidence of the presence of arsenic. Recent authorities hold the same doctrine as respects ordinary chemical pursuits.

Cross-examined.—The smell of arsenic resembles nothing so much as that of phosphorus acid. Garlic has not a smell like it. Zinc has a smell something similar, but not so near as phosphorus. Antimony has not a similar smell, except there be arsenic mingled with it, which is often the case, these metals being often found together in their native state. I think onions, after a chemical analysis, would not give out such a smell. I do not remember any authority who says it does. I have been taught chemistry. I am a practical chemist.

Dr. Coates.—I have opened a number of bodies, after death by cholera morbus, two of which were adults. In both these cases the stomach was full and distended.

James B. Wood, sworn.—I reside at No. 24, Bank-street, Philadelphia. I keep a hotel. Last July Mina called, and asked if I wanted to buy a dearborn wagon and horse.—I said, no. He asked if I could sell them—I said yes. He said a nobleman had left him some old-fashioned things, and he wanted to sell. He sent up in the afternoon. I tried to sell, but couldn't. Told him so. I said I would make an offer of forty dollars, and if he could do better he might. I went out of town, and left the money. When I came home my young man gave me the receipt. Receipt dated 18th of July, 1831.

Mr. M'Ilvaine, sworn.—I told Blayney I thought he had forgotten I had spoken to him of the poison. On Sunday, 27th August, I made the first inquiries in regard to the case at Andalusia, with Blayney and Reeside. I saw a neighbour, and conversed with him (Blayney and Reeside in the carriage) about the soup and chicken. We then went to Bristol to see Dr. Phillips,

and on the way had a free conversation of the whole subject; and, I believe, I concealed nothing. On the 15th of September, I went to New York, and Blayney went. On landing, we met the police clerk of Boston, and I think I told him the whole history of the soup. I further believe, I detailed in my letter to the mayor of Boston all the particulars I had. This was before Blayney's going for Mina. On the 17th of September, I first saw Mr. Ross on the subject. Mr. Blayney left for Boston at the first summoning of the coroner's jury, on the 21st September. It was about the 9th September I wrote to Boston.

By the Court.—The custom is, the police officer investigates the truth of the facts told to the officer; if any be false, the officer is released from his pledge of secrecy.

By Mr. Rush.—The cases I know of are, where questions were asked by defendant's counsel, and objected to on ground of policy by the commonwealth. The first publication was on the 16th of September, in a New York paper, and on the 17th in National Gazette. Mr. Chapman's name was not mentioned. I think he was arrested on the 9th of September in Boston. I must have written about the 4th or 5th. Nothing was said of the soup in the publication.

Dr. Mitchell, sworn.—On the 22d September, 1831, I received the stomach of William Chapman, and opened it in the presence of Dr. Hopkinson and Mr. Clemson. The stomach was of a brownish red colour, and was covered with a viscid mucus, but contained no other matter. The mucus was removed with a bone spoon, and then the stomach exhibited darker spots near the upper orifice, and irregular patches in other places. The scraping separated the mucous lining in parts where it seemed to have been detached by thin plates of extravasated blood. The intestine was apparently sound. No solid particles of arsenic were found in any part, either by the eye or the finger.

The mucus treated with water, and examined by the usual liquid tests, did not give decidedly characteristic precipitate. The sulphate of copper afforded a dirty green, the nitrate of silver a brownish yellow, the sulphuretted hydrogen caused, after the application of heat, a yellow deposit, which could not be got off from the filter by mechanical means. The whole of it, therefore, was thrown into nitric acid, in which were also dissolved the stomach and intestine. That was treated so as to produce, if possible, arseniate of lime, and that was manipulated with charcoal and heat, to obtain the metal of arsenic by sublimation. In a glass tube, sealed at one end, appeared a shining black ring, and on the accidental fracture of the glass, a decided odour of arsenic was perceived. In two other tubes, containing less of the material, the same odour was perceived. As no steel-coloured crust appeared, and as medico-legal authors generally condemn a dependence on the smell, and take no notice of a black ring, or ascribe it to charcoal, I considered the experiment as fruitless. The tubes were subsequently heated several times, to test the odour for different persons, and finally thrown on the table as useless. Mr. Clemson afterwards made some further examination of one of them, but I did not follow the process.

Since the trial of Mrs. Chapman, I have examined the subject of arsenic with a greater degree of attention. I put a grain of the white oxide of arsenic, combined with potash, into a stomach and portion of intestine obtained from the alms-house, and left it in two months, or more, perhaps. The stomach did not putrefy in that time, became much drier, and gave out an odour exactly like that of the stomach of Mr. Chapman; and this fact I tested by questioning others. Since the trial of Mrs. Chapman I have endeavoured to recover that arsenic by chemical process, and found that the liquid tests gave the same unsatisfactory appearances, but the metal was reduced so as to form characteristic rings in eight very small tubes. I do not consider my analysis of Mr. Chapman's stomach a perfect one; because it was my first

attempt of the kind; for, although I lecture on medical chemistry, the professor of medical jurisprudence in the same school has charge of that particular department. The process was not well calculated to detect minute portions of arsenic; although a very good one for a larger quantity. It was also unsatisfactory from the state of knowledge at that time respecting the nature of the black shining ring, which I have since ascertained not to be formed of charcoal, and know of only two substances which will produce it, and both of them are poisonous, viz: suboxide of arsenic, and cinnabar, or sulphuret of mercury. When neither of these is present in the tube, a shining black ring is never thrown up, as far as I can ascertain by experiment. It was also unsatisfactory because the crust of metallic arsenic is considered by the highest and nearly all authority, to be essential to the detection of arsenic. I now consider that among the worst tests, since it is imitated exactly by another substance, not known to do so at the first examination. Sublimed cinnabar, *to the eye*, imitates arsenic closely. Considering then the whole process a failure, all the sublimable matter in the tubes was dissipated by the trials for the smell. The analysis of the alms-house stomach was made with more matured care, and by a different process. I subsequently endeavoured to learn the value of the arsenical odour as a test. With similar tubes, and at the same lamp, I endeavoured to produce that odour by means of those substances which, in that respect, are said to resemble arsenic; but was not able to produce that odour by any of them.

Mr. Clemson being absent during these experiments, on his return I went over them again, concealing from him the contents of the tubes. I presented them to him separately, and did not produce an odour which he took for arsenic in any case where that body was not present. I presented one containing arsenic, and he was not deceived in that tube. From the symptoms given, post mortem examinations, and analysis, my opinion is, that Mr. Chapman died from the presence of arsenic in the stomach. This opinion is given on the combination of circumstances, the whole series, and not exclusively upon any part of it. I believe the symptom of "burning pain" *might* exist in cholera morbus, because it proceeds from inflammation. The stiffness of the body immediately after death is not a common appearance, and is a characteristic of death by arsenic. This is an opinion formed from several writers.

Mr. Rush.—As I did not make notes, I do not certainly recollect where I found that opinion. It is, I believe, in Christison, Orfila, Jæger, &c. I did not form the opinion as to the death by arsenic, until I heard the testimony in Mrs. Chapman's case. I think the chemical proof is not quite conclusive, and could not *alone* settle this case. I think better of it than I did originally. The first test was sulph. copper; it threw down a dirty green, not such as arsenic would have produced in clear water; not characteristic of arsenic. The nit. silver did not act satisfactorily. Metallic arsenic was not obtained. The shining black ring and the arsenical odour were produced. The arsenical odour would, in chemical or scientific purposes, suffice to establish its presence. I would not like to trust to that alone in judicial investigations. When the experiments were closed with Mr. Chapman's stomach, I considered them as a failure, or not *demonstrative* of the existence of arsenic *at that time*. It is from my subsequent experiments I have come to a firmer opinion of its presence. There was no alkali used in the experiment with the sulphuretted hydrogen. The quantity of arsenic recovered may be very small. Christison, in a case of poison, obtained one-twentieth part of a grain; but from how much he could not know. In abstract experiments, not from the body, Berzelius has, if I remember well, sublimed one hundred and eightieth part of a grain, and says he thinks one three-hundredth would form a visible crust. As to the tests, the quantity of it which they may detect in unadulterated solutions, in clear water, is *very* minute. There is no instance recorded of a less quantity than thirty grains killing a *full grown* individual.

I gave a dog sixty grains; I believe since Mrs. Chapman's trial, but am not sure. It did not kill him; he vomited. The dog vomits so easily, that he threw it up probably immediately. The duodenum is the intestine next the stomach. Authority is decidedly in favour of the fact, that other substances produce an odour so like that of arsenic, that it may be mistaken, and that it is not sufficient proof. Chemistry is a progressive and changing science.

Mr. M'Dowell.—Christison is undoubtedly the best English authority on poisons. Orfila the best French.

Mr. Reed.—There are nine hundred and sixty grains in two ounces. *Many* cases where no arsenic was found after death, in cases where it caused it, are recorded.

Mr. Ross.—The symptoms, and other phenomena detailed, were, some of them, such as arsenic might produce; some such as it probably would produce; and others such as perhaps nothing else could. Having endeavoured to exclude all other testimony, I should on these alone have made up my mind as to his death. I cannot feel certain that I am not influenced by the other evidence in this case, but think that the train of symptoms, condition of the dead body, and chemical investigations, combined, afford strong and sufficient ground for the opinion given.

By the Court.—To my knowledge I have never been deceived by the odour of arsenic. I think there could have been no substance in the matter examined that would have thrown out the smell of arsenic. From that examination and my subsequent ones, as a mineralogist and man of science, I have no doubt of the presence of the odour of arsenic, and, of course, of arsenic. As a chemist in ordinary investigations, I am warranted in relying on the odour as a test of the presence of arsenic. Berzelius, in his work "On the Blow-pipe," p. 122, says, "The odour of arsenic is so good a character that it may even be detected by it in the small portion of smalt commonly used to give a blue tinge to paper, by exposing the ashes of the paper to the reducing flame." Henry Rose gives a similar opinion; and Orfila (Toxicol. tom. i. p. 368), in speaking of plants, observes, "That the parts perish as the arsenic successively reaches them by absorption, which seems *perfectly well proved* by the alliaceous odour which is manifested when we burn the parts the farthest removed from those to which the deleterious substance has been applied." A ring without the odour would not satisfy me, and of the two, if I must judge by one, I should most depend on the odour, but only then for ordinary purposes. I consider the black shining ring as additional evidence; it was distinguished from the ring of cinnabar by the absence of the smell of sulphur. Alone, however, I could not confide in it, as it is a new point, on which there is no good authority. Writers have ascribed it to charcoal, but charcoal cannot produce it. Of the liquid tests sulphuretted hydrogen afforded a characteristic precipitate, which might have been sulphur, but was more probably a mixture of animal matter and a trace of arsenic. As part of the series, it is of some import. As a chemist, and for all ordinary purposes, I should not feel warranted in rejecting the train of chemical evidence in favour of the presence of arsenic, but cannot entirely divest myself of the influence which the weight of authority, and the importance of the consequences naturally exert. Without the odour, even a crust would not have satisfied me. Confined to one single test, I would prefer the odour. The black lustrous ring was additional evidence; for as it did not give a sulphureous, but an arsenical smell, it could not be cinnabar. I should not feel justified in rejecting the train of chemical evidence.

By Mr. Rush.—I speak as a chemist in his ordinary pursuits.

The testimony for the commonwealth being here closed, Mr. M'Dowell briefly opened the case for the defendant. The only evidence adduced was, the deposition of Dr. Bache (which will be found at page 374), and the verdict of acquittal in the case of Mrs. Chapman

Messrs. Reed, M'Dowell, Rush, and Ross addressed the jury in the order in which they are named.

To show that a principal in the second degree may be convicted after the acquittal of a principal in the first degree, the prosecution cited *Foster's C. L.* 350, 349.—1 *East, P. C.* 351.—1 *Salkeld*, 334. Also, to show what constitutes a legal presence, 1 *Hale*, 437, 439, 534, 537. Knapp's Trial.

Judge Fox charged the jury on Friday afternoon; after which they were placed in the custody of two constables, to be kept without meat, &c. until they were agreed upon their verdict. In somewhat less than three hours, (it being then about half-past nine o'clock in the evening), the jury returned into court:—

Verdict.—Guilty of murder in the first degree, on the first and second counts of the indictment, and not guilty on the third count.

The court directed the sheriff to take the prisoner back for the night.

On Saturday morning, the court having directed that he be brought up to receive sentence, Mr. M'Dowell requested the court to allow the counsel time to file reasons in arrest of judgment, if they should find it advisable to do so; and mentioned the time of four days, as the customary allowance. The court acceded.

Tuesday morning, May 1.

Mr. Rush presented an application for a new trial, based upon the following reasons, viz:

1. That there was error in the said court's not having rejected the testimony of Willis H. Blayney, as to the alleged confessions of said defendant; the said testimony having been obtained under promise, influence, and hope of favour.

2. That there was error in the said court's having directed the jury to judge whether the evidence of the confession aforesaid should operate against said defendant; the said court being the exclusive judges of the competency of said evidence.

3. That when said Willis H. Blayney objected to giving the evidence aforesaid, on the ground of his obligations of secrecy as a police officer of the city of Philadelphia, there was error in the court's overruling the said objection.

4. That there was error in the court's refusing to allow the defendant's counsel to argue the objection contained in the third reason aforesaid.

Previously to entering upon the argument, Mr. Rush asked if it would be necessary that the prisoner should be present pending the discussion.

The court said, it had been settled that there was no such necessity, if the counsel for the prisoner were willing to argue the motion in his absence.

This course was adopted by counsel, and Mr. Rush proceeded to argue the several points made. The compact or promise of secrecy between Blayney and the prisoner was insisted upon to be a promise of favour, inasmuch as it amounted to an immunity from prosecution. There was no other inducement for the prisoner to make the confession. It could not be said that the revelation was voluntary. There was a fair approach made by each of them.

Mr. Rush quoted 1*st Starkie*, 48, 1*st Phillips*, 81, and 1*st Chitty, C. L.* 465, to show that the established principle was, that any promise, even the slightest, of favour, invalidated a confession made in consequence of it, and that it was not legal evidence. On the ground of public policy, also, the evidence of Mr. Blayney ought to have been rejected. To this point was cited, 1*st Starkie*, 106. *Case of United States* vs. *Craig, C. C. U. S.* (*MS. of Mr. Rush*), in which John M'Clean, high constable of Philadelphia, refused to answer a question asked by defendant's counsel, which was objected to by the counsel for the prosecution; and was overruled by the court on the ground of public policy. Also, *Case of Commonwealth* vs. *Loughead*, recently tried in Philadelphia, where the same principle was recognised. Mr. Rush argued, that

there could not be one law for the defendant, and another law for the commonwealth; that if the doctrine was sustained for one party, it should be, under similar circumstances, sustained for the other. In this case, Mr. Blayney challenged his own evidence.

Mr. Rush having fully argued the several objections stated, the court declined hearing Mr. Ross, for the commonwealth.

Judge Fox.—If we had any doubt, we would delay deciding this question; but having none, we think it best to settle it at once.

As to the first reason, we have not changed our opinions since the trial. We do not think that the statement or confession made by the prisoner to Blayney, was obtained by any promise of favour whatever. We consider it rather as having been obtruded upon him. It was, at most, a promise to keep secret a confession which Mina wished to make, upon condition that his declaration, that he was neither a convict nor a pirate, should turn out to be true. Mr. Blayney had cautioned Mina (who seemed disposed to talk to everybody about his situation) before this, not to speak of his affairs to any, and had several times repelled him when he wished to converse with him on the subject.

As to the second reason. If the court had doubted whether the confession were induced by a promise of favour or not, I do not think it would have been error to let it go to the jury for them to decide that question. Such course was taken by the Oyer and Terminer in Philadelphia county in the case of the *Commonwealth* vs. *Githro Yard*, charged with arson. There the court said, that wherever it was doubtful whether the confession were obtained by the promise of favour, or threat of punishment, it should be left as a question of fact to the jury. But in the present case, the question made cannot arise, because the court decided, directly, that the confession had not been induced by any such promise, before they suffered it to go to the jury. It is true, that after so deciding, and some time after the evidence had gone to the jury, when the first counsel for the prisoner, in his summing up, was about to notice this part of the case, the court told him he might address the jury upon the question, whether the confession was obtained by a promise of favour or not, as it was the intention of the court to leave that as a question of fact to them, with instructions that if they believed it was so induced, to reject it. This was done in tenderness to the prisoner, and in favour of life. The court still think they were right to do so. The jury probably would have considered that question at any rate, but as it was mainly a question of fact, we thought it best to let the counsel for the prisoner have an opportunity of being heard by them upon it, and leave it fairly for their decision. Surely, in this the prisoner has no cause of complaint. At the time, the counsel for the prisoner expressed their gratification, it having (to use their own expression) "given the prisoner a fair chance."

As to the third reason. How far upon the application of the commonwealth, the court, upon the ground of public policy, would suffer a police officer to withhold information which a *defendant* might deem of importance to him, must depend upon the circumstances of each case as it arises, and be within the sound discretion of the court. But there is no instance, that we can learn, where the commonwealth has required her police officers to answer, that they have been suffered to refuse. Here there was no ground for giving him any such privilege; he broke no faith; he had already given the information in writing to the mayor of Philadelphia, and to the deputy attorney-general here; and on the trial, for the first time, refused to answer. We still think we were right in compelling him to answer.

As to the fourth reason. After the court had decided that Mr. Blayney must answer, and upon his refusal, declared their determination to bind him over to the next sessions for so refusing, the defendant's counsel interposed, and wished to argue the question of the *expediency of punishing Mr. Blayney*. The court had decided that question. They had determined that the com-

monwealth was entitled to Mr. Blayney's evidence, and that he should give it. If *he* had asked to be heard, the court would have assigned a time to hear him on his own case, but they would not have suspended the trial to hear him. It was a question between the court and Mr. Blayney, with which the prisoner had nothing to do. The court had already decided all in which the prisoner could with any propriety take part, viz: that Mr. Blayney should answer the questions put to him, or, if he refused, be bound over to the sessions. We still think we were right, and therefore the motion for a new trial is refused.

Mr. Ross moved that the prisoner now be brought up for sentence. He was accordingly brought into court (about half-past eleven o'clock), and was asked if he had any thing to say why sentence of death should not be passed upon him.

Mr. M'Dowell then rose and said that the counsel had nothing further to say, but that the prisoner himself had drawn up a paper, which they thought it best to read in his own words. (The reporter made application to Messrs. Rush and M'Dowell, to obtain a copy of that paper for insertion here, but understood from them that it would most probably be laid before the governor, and they therefore thought the publication of it, at this time, would not be proper. The following does not, however, substantially differ from it:)—

"Before the court shall proceed to pass upon me the sentence of the law, I wish to say a few words to them. My name is Carolino. I was born on the 20th of December, 1809, in the city of Trinidad, in the island of Cuba, where my parents now reside. I was baptized in the Roman Catholic church, and desire to die in its faith. I pray that a priest of that religion may be sent to me, that I may prepare myself for death, by confession, and the blessed absolution, and by partaking of the holy communion according to the rites and ceremonies of that church.

"I have written to my father and brother, and expect they will come to this country to see me; and I have, in the island of Cuba, a daughter four years old. It is necessary before I die that I should execute some legal papers, in order to secure some property to my daughter. I therefore pray the court to grant me at least a few months of existence before I am ordered to be executed."

The president judge said, "These matters will be laid before the governor, who will no doubt grant the request which you make." He then (with a difficulty of utterance which showed how largely he partook of the feeling which seemed to pervade the multitude, and which was manifested by the tears of many) proceeded to pass sentence.

"Lino Amalia Espos y Mina, the sentence which the law imposes upon you is, that you be taken hence to the prison of Bucks county, from whence you came, and from thence to the place of execution; and that you be there hanged by the neck until you are dead. And may God have mercy upon your soul."

JOHN HATFIELD,

FOR FORGERY, SEPTEMBER 3, 1803.

THE Keswick Impostor was born in 1759, at Mortram, Cheshire, of low descent, but possessed of much natural abilities. He quitted his family, and was employed in the capacity of a rider to a linen-draper in the north of England. In the course of this service, he became acquainted with a young woman, the natural daughter of Lord Robert Manners, who intended to give her one thousand pounds, provided she married with his approbation. He accordingly paid his respects to the parent, who, conceiving the young man to be

what he represented himself, gave his consent at the first interview; and, the day after the marriage took place, presented the bridegroom with a draft on his ba ker for £1500.

Shortly after the receipt of his lordship's bounty, Hatfield set off for London, hired a small phaeton, was perpetually at the coffee-houses in Covent garden, and described himself, to whatever company he chanced to meet, as a near relation of the Rutland family. The marriage portion being exhausted, he retreated from London, and was scarcely heard of until about the year 1782, when he again visited the metropolis, having left his wife, with three daughters she had borne to him, to depend on the charity of her relations. Happily she did not long survive

In the year 1784 or 1785, his grace the duke of Rutland was appointed lord-lieutenant of Ireland, and, shortly after his arrival in Dublin, Hatfield made his appearance in that city. He immediately, on his landing, engaged a suite of apartments at a hotel in College-green, and represented himself as nearly allied to the viceroy, but that he could not appear at the castle until his horses, servants, and carriages were arrived, which he ordered, before his leaving England, to be shipped at Liverpool. The easy and familiar manner in which he addressed the master of the hotel perfectly satisfied him that he had a man of consequence in his house, and matters were arranged accordingly. This being adjusted, Hatfield soon found his way to Lucas's coffee-house, a place which people of a certain rank generally frequent, and, it being a new scene, the Yorkshire Park, the Rutland estate, and the connexions with the Rutland family stood their ground very well for about a month.

In 1792 he went to Scarborough, introduced himself to the acquaintance of several persons of distinction in that neighbourhood, and insinuated that he was, by the interest of the duke of Rutland, soon to be one of the representatives in parliament for the town of Scarborough. After several weeks' stay at the principal inn at Scarborough, his imposture was detected by his inability to pay the bill. Soon after his arrival in London he was arrested for this debt, and thrown into prison. He had been eight years and a half in confinement, when a Miss Nation, of Devonshire, to whom he had become known, paid his debts, took him from prison, and gave him her hand in marriage.

Soon after he was liberated, he had the good fortune to prevail with some highly respectable merchants in Devonshire to take him into partnership with them, and with a clergyman to accept his drafts to a large amount. He made, upon this foundation, a splendid appearance in London, and, before the general election, even proceeded to a canvass in the borough of Queensborough. Suspicions in the mean time arose in regard to his character and the state of his fortune. He retired from the indignation of his creditors, and was declared a bankrupt, in order to bring his villanies to light. Thus having left behind his second wife, and two infant children, at Tiverton, he visited other places; and at length, in July, 1802, arrived at the Queen's Head, in Keswick, in a carriage, but without any servant, where he assumed the name of the *Honourable Alexander Augustus Hope*, brother of the earl of Hopetoun, and member for Linlithgow.

Unfortunately he directed his steps to the once happy cottage of poor Mary, the daughter of Mr. and Mrs. Robinson, an old couple, who kept a small public house at the side of the beautiful lake of Buttermere, Cumberland, and by industry gained a little property. She was the only daughter, and probably her name had never been known to the public, but for the account given of her by the author of "A Fortnight's Ramble to the Lakes in Westmoreland, Lancashire, and Cumberland." He now became acquainted with an Irish gentleman, and member of the then Irish parliament, who had been resident with his family some months at Keswick. With this gentleman, and under his immediate protection, there was likewise a young lady of family and fortune, and of great personal attraction. One of the means which Hatfield used to introduce himself to this respectable family was the following :—Under-

standing that the gentleman had been a military man, he took an army-list from his pocket, and pointed to his assumed name, the honourable Alexander Augustus Hope, lieutenant-colonel of the 14th regiment of foot. This new acquaintance daily gained strength; and he shortly paid his addresses to the daughter of the above gentleman, and obtained her consent. The wedding clothes were bought; but, previously to the wedding-day being fixed, she insisted that the pretended colonel Hope should introduce the subject formally to her friends. He now pretended to write letters, and, while waiting for the answers, proposed to employ that time in a trip to lord Hopetoun's seat, &c.

From this time he played a double game: his visits to Keswick became frequent, and his suit to the young lady assiduous and fervent. Still, however, both at Keswick and Buttermere, he was somewhat shy of appearing in public. He was sure to be engaged in a fishing expedition on the day on which any company was expected at the public house at Buttermere; and he never attended the church at Keswick but once.

Finding his schemes baffled to obtain this young lady and her fortune, he now applied himself wholly to gain possession of Mary Robinson. He made the most minute inquiries among the neighbours into every circumstance relating to her and her family, and at length the pretended colonel Hope, in company with the clergyman, procured a license on the 1st of October, and they were publicly married in the church of Lorton, on Saturday, the 2d of October.

On the day previous to his marriage, he wrote to Mr. ———, informing him that he was under the necessity of being absent for ten days on a journey into Scotland, and sent him a draft for thirty pounds, drawn on Mr. Crump, of Liverpool, desiring him to cash it, and pay some small debts in Keswick with it, and send him over the balance, as he feared he might be short of cash on the road. This Mr. ——— immediately did, and sent him ten guineas in addition to the balance. On the Saturday, Wood, the landlord of the Queen's Head, returned from Lorton with the public intelligence, that colonel Hope had married the *Beauty of Buttermere*. As it was clear, whoever he was, that he had acted unworthily and dishonourably, Mr. M———'s suspicions were of course awakened. He instantly remitted the draft to Mr. Crump, who immediately accepted it. Mr. M———, the friend of the young lady whom he first paid his addresses to, wrote to the earl of Hopetoun. Before the answer arrived, the pretended honourable returned with his wife to Buttermere. He went only as far as Longtown, where he received two letters, seemed much troubled that some friends whom he had expected had not arrived there, stayed three days, and then told his wife that he would again go back to Buttermere. From this time she was seized with fears and suspicions. They returned, however, and their return was made known at Keswick. A Mr. Harding, a Welsh judge, and a very singular man, passing through Keswick, heard of this impostor, and sent his servant over to Buttermere with a note to the supposed colonel Hope, who observed, "that it was a mistake, and that the note was for a brother of his." However, he sent for four horses, and came over to Keswick; drew another draft on Mr. Crump, for twenty pounds, which the landlord at the Queen's Head had the courage to cash. Of this sum he immediately sent the ten guineas to Mr. ———, who came and introduced him to the judge, as his old friend colonel Hope. But he made a blank denial that he had ever assumed the name. He had said his name was Hope, but not that he was the *honourable member for Linlithgow*, &c. &c.; and one who had been his frequent companion, his intimate at Buttermere, gave evidence to the same purpose.

In spite, however, of his impudent assertions, and those of his associate, the evidence against him was decisive. A warrant was given by sir Frederick Vane on the clear proof of his having forged and received several franks as the member for Linlithgow, and he was committed to the care of a constable. Having, however, found means to escape, he took refuge for a few

days on board a sloop off Ravinglass, and then went in the coach to Ulverstone, and was afterwards seen at the hotel in Chester.

He was traced to Bruelth, in Brecknockshire, and was at length apprehended about sixteen miles from Swansea, and committed to Brecon jail. He was, however, conveyed up to town by one of the Bow-street officers, where he was examined on his arrival before the magistrates. The solicitor for his bankruptcy attended to identify his person, and stated, that the commission of bankruptcy was issued against Hatfield, in June, 1802; that he attended the last meeting of the commissioners, but the prisoner did not appear, although due notice of the bankruptcy had been given in the Gazette, and he himself had given a personal notice to the prisoner's wife, at Wakefield, near Tiverton, Devon. Mr. Parkyn, the solicitor to the post-office, produced a warrant from sir Fletcher Vane, bart., a magistrate for the county of Cumberland, against the prisoner, by the name of the Hon. Alex. Augustus Hope, charging him with felony, by pretending to be a member of parliament of the united kingdom, and franking several letters by the name of A. Hope, to several persons, which were put into the post-office at Keswick, in Cumberland, in order to evade the duties of postage. Another charge for forgery, and the charge of bigamy, were explained to him, but not entered into, as he was committed for trial for these charges at the next assizes at Carlisle.

His trial came on August 15, 1803, at the assizes for Cumberland, before the honourable Alexander Thompson, knight.

Mr. Scarlet having given an ample detail of the prisoner's guilt, now called evidence in support of what he had advanced. Mr. Quick, who was clerk in the house at Tiverton, where Hatfield was partner, swore to his handwriting.

The Rev. Mr. Nicholson swore to all the facts already stated, adding, that when the prisoner was asked his name, he said, it was a comfortable one, Hope. The other witnesses were Mr. Joseph Skelton, of Rockliffe, Cumberland; Mr. George Wood, of Keswick, innkeeper; John Gregory Crump, and colonel Parke, who was well acquainted with the real colonel Hope.

The evidence for the prosecution having closed, the prisoner then addressed himself to the jury. He said he felt some degree of satisfaction in being able to have his sufferings terminated, as they must of course be by their verdict. For the space of nine months he had been dragged from prison to prison, and torn from place to place, subject to all the misrepresentations of calumny. "Whatever will be my fate," said he, "I am content; it is the award of justice, impartially and virtuously administered. But I will solemnly declare, that in all my transactions, I never intended to defraud or injure the persons whose names have appeared in the prosecution. This I will maintain to the last of my life."

The jury consulted about ten minutes, and then returned a verdict—*Guilty of Forgery.*

At eight o'clock the next morning, the court met again, when the prisoner appeared at the bar to receive his sentence. A notion very generally prevailed that he would not be brought to justice, and the arrival of the mail was daily expected with the greatest impatience. No pardon arriving, September 3, 1803 (Saturday), was at last fixed upon for the execution. The gallows was erected the preceding night between twelve and three, in an island formed by the river Eden, on the north side of the town, between the two bridges. From the hour when the jury found him guilty, he behaved with the utmost serenity and cheerfulness.

As soon as the carriage-door was opened by the under-sheriff, the culprit alighted with his two companions. A small dung-cart, boarded over, was placed under the gibbet. A ladder was placed to this stage, which he instantly ascended. He immediately untied his neck-handkerchief, and placed a bandage over his eyes. Then he desired the hangman, who was extremely awkward, to be as expert as possible about it, and that he would wave his

handkerchief when he was ready. Having taken his leave of the jailer and the sheriff, he prepared himself for his fate. He was at this time heard to exclaim, "My spirit is strong, though my body is weak."

Notwithstanding his various and complicated enormities, his untimely end excited considerable commiseration. His manners were extremely polished and insinuating, and he was possessed of qualities which might have rendered him an ornament to society. The unfortunate Mary of Buttermere went from home to avoid the impertinent visits of unfeeling curiosity. By all accounts she was much affected; and, indeed, without supposing that any part of her former attachment remained, it is impossible that she could view with indifference the tragical fate of one with whom she had been on such a footing. When her father and mother heard that Hatfield had certainly been hanged, they both exclaimed, "God be thanked."

TRIAL BY COMBAT,

BETWEEN HENRY PLANTAGENET, OR BOLINGBROKE, THEN DUKE OF HEREFORD, AFTERWARDS OF LANCASTER, AND KING OF ENGLAND BY THE NAME OF HENRY IV., AND THOMAS MOWBRAY, DUKE OF NORFOLK, EARL-MARSHAL OF ENGLAND, IN THE YEAR 1397, AND 21ST OF RICHARD II.

The duke of Hereford one day, in familiar conversation with the duke of Norfolk, complained that the king undervalued the princes of the blood, and discountenanced the nobility from intermeddling with public affairs; that instead of these, he was led away by upstart favourites, who had neither abilities for peace or war, but were generally hated and despised throughout the kingdom; but the duke of Norfolk, who seemed at first to approve of what the other said, misrepresented his words to the king, and named the quarrel between them.

Other authors, however, relate, that in a parliament held at Shrewsbury, the duke of Hereford accused the duke of Norfolk of certain words that passed between them, as they rode between Brentford and London, which tended to the king's dishonour, and he presented a petition to the king, wherein he challenged the duke of Norfolk to single combat. The petition was read in the king's presence before both the dukes; upon which the duke of Norfolk declared, "That whatever the other said to his dishonour was a lie." Then the king asking the duke of Hereford what he had to say; he took his hood off his head, and replied, "My sovereign lord, I justify every word contained in my petition, and declare, that Thomas Mowbray, duke of Norfolk, is a traitor, false, and disloyal to your majesty, to your crown and dignity, and all the states of your realm."

The duke of Norfolk being asked what he had to say, answered, "Right dear sovereign, with your leave, and all due deference had to your majesty, I say that your cousin, Henry of Lancaster, duke of Hereford, lies, like a traitor as he is, in that he hath or shall say any thing dishonourable of me." Then said the king, "No more, we have heard enough." He then commanded Thomas Holland, duke of Surrey, made marshal of England for the occasion, to take both the dukes into custody. The duke of Lancaster, Hereford's father; the duke of York, his uncle; the duke of Aumale, his first cousin, constable of England, and the duke of Surrey, were bound for him; but the duke of Norfolk was not suffered to give bail, and was conveyed a prisoner to Windsor Castle.

A day was appointed, about six weeks after the dissolution of the parliament held at Shrewsbury, for the king to go to Windsor in order to determine

the difference between the two dukes who had challenged one another. A scaffold was erected within the castle for the king, and the nobility, and prelates to sit on; and, having taken their places, the two dukes were brought before the king, and sir John Bushy, in the king's name, declared to all present, "That whereas the duke of Hereford had presented a petition to the king, who was ready to administer justice to all persons that demanded it; he, therefore, would now hear what both had to say;" but first he commanded the dukes of Aumale and Surrey to go to the appellant and defendant, and to require them to accommodate matters; but both of them resolutely answered, "*It was impossible for them to be reconciled.*" The king then commanded that they should forthwith be brought into his presence.

The king himself, upon their appearing before him, exhorted them to be reconciled, saying, "It would be their best way." Upon which the duke of Norfolk, having made his obedience, said, "It could not be done, and his honour saved." Then the king asked the duke of Hereford, "What it was that he demanded of the duke of Norfolk, and what was the reason they could not be reconciled?" Upon this a knight appeared, and having obtained leave to speak for the duke of Hereford, said, "My sovereign lord, here is Henry of Lancaster, duke of Hereford, and earl of Derby, who says, and I also for him, that Thomas Mowbray, duke of Norfolk, is a false traitor to your royal majesty, and the whole kingdom. Farther, the duke of Hereford says, and I for him, that Thomas Mowbray, duke of Norfolk, has received eight thousand nobles for the payment of the garrison of Calais, which he has not done: again, that the said duke has been the cause of all the treasons formed in your dominions these eighteen years, and that it was through his false suggestions, and evil council, that your dear uncle, the duke of Gloucester, was put to death and murdered. Moreover, the duke of Hereford says, and I for him, that he will prove this with his body against the body of the said duke of Norfolk within the lists." The king growing angry hereupon, asked the duke of Hereford, whether those were his words? to which he answered, "My dear sovereign, they are; and I demand justice should be done me, and that I may engage him in combat."

Another knight, also, who obtained leave to speak for the duke of Norfolk, said, "Most dread sovereign, here is Thomas, duke of Norfolk, who answers, and I for him, that all that Henry of Lancaster has said and declared, with all due deference to the king's majesty and his council, is a lie; and the said Henry of Lancaster hath falsely and wickedly lied, like an unworthy and disloyal knight, and both has been and is a traitor against your majesty, your crown, and kingdom. This I will prove and defend as becomes a loyal knight, with my body against his. I, therefore, beseech your majesty and your council, that you would be pleased, in your royal wisdom, to consider and observe what Henry of Lancaster, duke of Hereford, such an one as he is, has said."

The king then asking the duke of Norfolk if these were his words, and whether he had any more to say? the duke answered, "Royal sir, I own I have received such a sum in gold for the payment of the garrison of Calais, which I have done, and do aver, that that town is as well provided pursuant to your commands, as ever it has been, and that there never was any complaint made from thence to your majesty by anybody against me. Most dread sovereign, as to the voyage I made into France, about the business of your marriage, I received of you no money at all, of any kind, nor for that made by the duke of Aumale and myself into Germany. I must own that I once lay in wait for the life of the duke of Lancaster, who sits there; but that he has forgiven me, and there is a good understanding between him and I, for which I give him my hearty thanks. This is what I have to answer, being ready to defend myself against my adversary; and, therefore, I beseech your majesty that I may have a combat with him, and that righteous judgment be given thereupon."

The king having for a short time advised with his council, the two dukes were again commanded to appear, and his majesty having commanded them once more to be asked, whether they would not agree and be friends, they both absolutely refused it; and the duke of Hereford at the same time throwing down his gauntlet, the other took it up.

The king being thus fully assured of their obstinacy, swore by St. John the Baptist, that he would no longer endeavour to reconcile them; and, therefore, sir John Bushy, in the king and council's name, declared, that it was their resolution and pleasure that they should have a day of battle appointed them at Coventry.

The appointed time being come, the king went to Coventry, where the two dukes were ready, according to the rules and orders prescribed. They had, each of them, a splendid retinue of noblemen and gentlemen. The king had ordered a stately theatre to be built, and royal lists erected. The duke of Hereford, on the Sunday before they were to engage, went, after dinner, to wait upon the king, who had taken up his lodgings in a tower belonging to sir William Baget, about a quarter of a mile out of the town; and the duke of Norfolk, next morning about break of day, went also to court to take his leave of the king. The duke of Hereford armed himself in his tent, which was pitched near the lists; and the duke of Norfolk put on his armour between the gate and the barrier of the town, there being a fine thick wood towards the gate.

The duke of Aumale, high-constable of England for the day, and duke of Surrey, earl-marshal, placed themselves, well armed and appointed, between them; and when their time arrived they entered the lists, with very great retinues of servants, clad in rich liveries, every man having a tip-staff in his hand to keep the field clear.

About the hour of *prime*, came Henry, duke of Hereford, to the barriers of the lists, mounted on a white courser, with his caparison of blue and white velvet, richly embroidered with swans and antelopes, and armed at all points. The constable and marshal came to the barriers, and asking him who he was, he answered, "I am Henry of Lancaster, duke of Hereford, and come hither to do my endeavours against Thomas Mowbray, duke of Norfolk, so as to prove him a traitor, false to God, the king, kingdom, and myself." Having thus spoke, he took his oath upon the holy evangelists, that his quarrel was just and true; and, therefore, demanded liberty to enter the lists. Upon which he put up his sword (which before he held drawn in his hand), pulled down his beaver, and signing himself with the cross, took his spear in his hand and passed the barriers, dismounted, and sat down in a green velvet chair, placed on a cloth of green and blue velvet at one end of the lists.

Soon after king Richard himself entered the field with great splendour and magnificence, being attended by most of the peers of the realm; and, among others, the count de St. Paul, who came from France on purpose. The king had a train of about ten thousand men, to keep the peace and prevent tumults; and when he had seated himself, a king of arms made a proclamation, forbidding all persons, in the name of the king, the high-constable, and marshal, to approach or touch any part of the lists, upon pain of death. The proclamation being over, another herald cried aloud, "Behold here Henry of Lancaster, duke of Hereford, who has entered the lists to do his duty against Thomas Mowbray, duke of Norfolk, defendant, upon pain of being adjudged a traitor and a coward."

On the other hand, the duke of Norfolk hovered on horseback before the barriers of the lists; the caparisons of his horse being of crimson velvet, richly embroidered with silver lions and mulberry trees. He first took his oath that his quarrel was just, before the constable and marshal, and then entered the field crying aloud, "God assist the just cause!" and then alighting from his horse, placed himself in a crimson velvet chair, at the other end of the lists, opposite to his adversary.

This done, the marshal viewed their spears to see that they were of equal length; he delivered one spear himself to the duke of Hereford, and the other he sent by a knight to the duke of Norfolk. Then proclamation was made by a herald, that the floor-cloth and chairs of the combatants should be removed, and commanded them, in the king's name, to mount, and prepare for the encounter.

The dukes soon mounted, and closing their beavers, cast their spears into their wrests, and when the trumpet sounded, Hereford advanced some paces with a great semblance of courage towards his enemy. The duke of Norfolk was just beginning to advance, when the king threw down his warder, and the heralds cried "Ho! ho!"

Then the king was pleased to command that their spears should be taken from them, and that they should return to their respective chairs again. There they remained two hours, while the king was deliberating with his council what was most proper to be done to terminate this grand controversy without bloodshed. Having at length come to a final resolution, the herald commanded silence, and sir John Bushy, the king's secretary, read the sentence from a long roll of paper, to this effect: "That Henry, duke of Hereford, shall within fifteen days depart the kingdom, and not return before the expiration of the term of ten years, and this upon pain of death, except the king pleases to repeal the sentence. And that Thomas Mowbray, duke of Norfolk, because he has sown sedition in the realm by his words, should likewise depart the kingdom, and never return into England, nor come near the confines thereof, upon pain of death; and that the king should receive the income of his estate, till such time as those sums of money, which he had received for the payment of the garrison of Calais, were fully repaid and satisfied."

The sentence being read, the king commanded both the parties to come before him, and make oath that they would never, willingly, come into each other's company, or hold any correspondence whatever. It was also decreed, that no one thenceforward should presume to petition the king in behalf of either of the parties.

The duke of Norfolk, in great discontent of mind, departed for Germany, and thence he travelled to Venice where he died soon after.

The duke of Hereford took his leave of the king at Eltham, where he commuted four years of his banishment. In going thence, the people in all places flocked to see the duke, and bewail his misfortunes and their own, as they looked upon him as the bulwark of the country.

In three years he took advantage of the king's absence in Ireland, to return, when a general insurrection taking place in his favour, the king was obliged to abdicate, and he succeeded to the throne, under the title of Henry IV. to the exclusion of the children of the duke of York, the next in hereditary succession, and hence the subsequent civil wars.

CAPTAIN JOHN GOW AND OTHERS,

FOR PIRACY.

John Gow, whose assumed name was captain Smith, was a native of one of the Orkney islands in the north of Scotland, and, having been instructed in maritime affairs, became so expert, that he was soon appointed mate of a ship, in which he sailed on a voyage to Santa Cruz. When the vessel was ready to weigh anchor from this place, the merchants who had shipped goods on board her, came to pay a parting visit to the captain, and to give him their

final instructions. On this occasion, the captain, agreeably to custom, entertained his company under an awning on the quarter-deck; and, while they were regaling, some of the sailors preferred a complaint of ill-treatment they pretended to have received, particularly with regard to short allowance. The captain was irritated at so undeserved a charge, which seemed calculated to prejudice him in the opinion of his employers; but conscious of the uprightness of his intentions, he did not reply in anger, but only said that "there was a steward on board who had the care of the provisions, and that all reasonable complaints should be redressed;" on which the seamen retired with apparent satisfaction.

The wind being fair, the captain directed his men to weigh anchor as soon as the merchants had quitted the vessel. It was observed that Paterson, one of the complainants, was very dilatory in executing his orders, on which the captain demanded, "why he did not exert himself to unfurl the sails;" to which he made no direct answer, but was heard to mutter, "as we eat, so shall we work:" the captain heard this, but took no notice of it, as he was unwilling to proceed to extremities. The ship had no sooner sailed, than the captain considered his situation as dangerous, on reflecting that his conduct had been complained of, and his orders disobeyed: hereupon he consulted the mate, and they agreed to deposit a number of small arms in the cabin, in order to defend themselves in case of an attack. This precaution might have been extremely salutary, but that they spoke so loud as to be overheard by two of the conspirators, who were on the quarter-deck: the captain likewise directed the mate to order Gow, who was second mate and gunner, to clean the arms; a circumstance that plainly insinuated to the latter, that the conspiracy was at least suspected. Those who had overheard the conversation between the captain and mate, communicated the substance of it to Gow and the other conspirators, who thereupon resolved to carry the plan into immediate execution.

Gow, who had previously intended to turn pirate, thought the present an admirable opportunity, as there were several chests of money on board the ship; he therefore proposed to his companions that they should immediately embark in the enterprise; and they accordingly determined to murder the captain, and seize the ship. Half the vessel's company were regularly called to prayers in the great cabin, at eight o'clock in the evening, while the other half were doing duty on deck; and, after service, those who had been in the cabin went to rest in their hammocks.

The contrivance was to execute the plot at this juncture. Two of the conspirators only remained on duty; the rest being among those who retired to their hammocks. Between nine and ten at night, a kind of watch-word was given, which was, "Who fires first?" On this, some of the conspirators left their hammocks, and going to the cabins of the surgeon, chief mate, and supercargo, they cut their throats while they were sleeping. The surgeon finding himself violently wounded, quitted his bed, and soon afterwards dropped on the floor, and expired: the mate and supercargo held their hands to their throats, and, going on the quarter-deck, solicited a momentary respite, to recommend their souls to heaven; but even this favour was denied, for the villains, who found their knives had failed to destroy them, despatched them with pistols. The captain, hearing a noise, demanded the occasion of it. The boatswain replied that he did not know; but he was apprehensive that some of the men had either fallen or been thrown overboard. The captain now went to look over the ship's side, on which two of the murderers followed, and tried to throw him into the sea; but he disengaged himself, and turned about to take a view of them, when one of them cut his throat, but not effectually; he loudly solicited mercy, but, instead of granting it, the other stabbed him in the back with a dagger, and would have repeated his blow, had he not struck with such force, that he could not draw back the weapon. At this instant. Gow, who had been assisting in the murders between the decks, came

on the quarter-deck, and fired a brace of balls into the captain's body, which put a period to his life.

As soon as the dead bodies were thrown overboard, Gow was unanimously appointed to the command of the ship. Those of the sailors who had not been engaged in the conspiracy, secreted themselves; some in the shrouds, others under the stores, in dreadful apprehension of sharing the fate of the captain and their murdered companions. Gow, having assembled his associates on the quarter-deck, appointed them their different stations on board, and it was agreed to commence cruising. The new captain now directed that the men who had concealed themselves should be informed that no danger would happen to them, if they did not interfere to oppose the new government of the ship, but kept such stations as were assigned them. The men, whose terrors had taught them to expect immediate death, were glad to comply with these terms; but the pirates, to enforce obedience to their orders, appointed two men to attend with drawn cutlasses, to terrify the others into submission.

Gow and his companions now divided the most valuable effects in the cabin; and then ordering liquor to be brought on the quarter-deck, they consumed the night in drinking, while those unconnected with the conspiracy had the care of working the ship. The crew originally consisted of twenty-four men; of whom four had been murdered, eight were conspirators, and before morning, four of the other men had approved of the proceedings of the pirates, so that there were only eight remaining in opposition to the newly usurped authority. On the following day, the new captain summoned these eight men to attend him; and, telling them he was determined to go on a cruising voyage, said, "that they should be well treated if they were disposed to act in concert with the rest of the crew." He said, "that every man should fare in the same manner; and that good order and discipline were all that would be required." He said further, "that the captain's inhumanity had produced the consequences which had happened; that those who had not been concerned in the conspiracy, had not reason to fear any ill consequences from it; that they had only to discharge their duty as seamen, and every man should be rewarded according to his merit." To this address, these unfortunate honest men made no kind of reply; and Gow interpreted their silence into an assent to measures which it was not in their power to oppose.

After this declaration of the will of the new captain, they were permitted to range the ship at their pleasure; but, as some of them appeared to act very reluctantly, a strict eye was kept on their conduct. Williams, who acted as lieutenant of the vessel, and who was distinguished for his ferocious conduct, had an opportunity of exerting his cruelty, by beating these unhappy sailors; a privilege he did not fail to exert with great severity.

The ship, thus seized, had been called the George galley, but the pirates gave her the name of the Revenge; and, having mounted several guns, they steered towards Spain and Portugal, in expectation of making a capture of wine, of which article they were greatly in want. They soon made prize of an English vessel, laden with fish, bound from Newfoundland to Cadiz; but having no use for the cargo, they took out the captain, and four men who navigated the ship, which they sunk. One of the seamen whom they took out of the captured vessel, named John Belvin, proposed to Gow to enter into all his schemes. The next vessel taken by the pirates was a Scotch ship, bound to Italy, with pickled herrings; but this cargo, like the former, being of no use to them, they sunk the vessel, having first taken out the men, arms, ammunition, and stores.

When they had cruised off for some days, they found themselves in such distress, that it became necessary to seek immediate relief; on which they sailed to Porta Santa, a Portuguese settlement, at the distance of about ten leagues. On their arrival at this place, they sent their boat on shore, with a present of salmon and herrings for the governor, and the name of a port to which they pretended to be bound. The persons sent on shore were civilly

treated by the governor, who accompanied some of his friends on board the ship. Gow and his associates received the governor very politely, and entertained him and his company in the most hospitable manner; but the boats belonging to the pirates not coming on board with provisions as they had expected, and the governor and his attendants preparing to depart, Gow and his people threatened to take away their lives, unless they instantly furnished them with what they required. The Portuguese governor and his friends dreaded instant death, and solicited that their lives might be spared: Gow being peremptory in his demands, the governor sent a boat repeatedly on shore, till the pirates were furnished with such articles as they wanted. The Portuguese were now permitted to depart; and the pirates determined to steer towards the coast of Spain, where they soon arrived. After cruising a few days off Cape St. Vincent, they fell in with an English vessel, bound from the coast of Guinea to America, with slaves, but which had been obliged to put into the port of Lisbon: though it was of no use to them to capture such a vessel, they took it, and putting on board the captain and men they had heretofore taken, and taking out all the provisions and some of the sails, they left the ship to proceed on her voyage. Falling in with a French ship, laden with wine, oil, and fruit, they took out the lading, and gave the vessel to the Scotch captain, in return for the ship which they had sunk. The Scotchman was likewise presented with some valuable articles, and permitted to take his men to sail with him; all of whom joined him, except one, who continued with the pirates through choice.

The day previous to this affair, they observed a French ship bearing down towards them; on which Gow ordered his people to lay-to; but, observing that the vessel mounted two-and-thirty guns, and seemed proportionally full of men, he assembled his people, and observed to them, that it would be madness in them to think of engaging so superior a force. The crew in general were of Gow's opinion; but Williams, the lieutenant, said that Gow was a coward, and unworthy to command the vessel. The fact was, that Gow possessed some share of calm courage; while Williams's impetuosity was of the most brutal kind: the latter, after behaving in the most abusive manner, demanded that the former should give orders for fighting the vessel; but Gow refusing to comply, the other presented a pistol to shoot him, which only flashed in the pan. This being observed by two of the pirates, named Winter and Paterson, they both fired at Williams, when one of them wounded him in the arm, and the other in the belly. He dropped as soon as the pieces were discharged; and the other seamen, thinking he was dead, were about to throw him overboard, when he suddenly sprang on his feet, jumped into the hold, and swore he would set fire to the powder-room; and, as his pistol was yet loaded, there was every reason to think he would actually have done so, had he not been instantly seized, and his hands chained behind him; in which condition he was put among the French prisoners, who were terrified at the sight of him; it having been a common practice with him to flog the poor prisoners, by way of entertainment.

At length they determined to put Williams on board a captured ship; the commander of which was desired to turn him over to the first English man-of-war he should meet with, that he might experience the justice due to his crimes; and in the mean time to keep him in the strictest confinement. On the departure of this ship, Gow and his crew began to reflect on their situation. They were apprehensive, that as soon as intelligence of their proceeding reached Portugal, some ships would be sent in pursuit of them.

After much deliberation, they steered northward, and entering a bay of one of the Orkney Islands, Gow assembled his crew, in order to instruct them to say, that they were bound from Cadiz to Stockholm; but contrary winds driving them past the Sound, till it was filled with ice, they were under the necessity of putting in to clean their ship, and that they would pay ready money for such articles as they stood in need of. It happened that a smug-

gling vessel lay at this time in the bay, which belonged to the Isle of Man, and being laden with brandy and wine from France, had come north about, to steer clear of the custom-house cutters. In their present situation, Gow thought it prudent to exchange goods with the commander of the vessel; though, in any other, he would hardly have been so ceremonious. A Swedish vessel entering the bay two days afterwards, Gow likewise exchanged some goods with the captain.

When the boat went ashore one evening, a young fellow, who had been compelled to take part with the pirates, got away from the rest of the boat's crew, and, after lying concealed some time at a farm-house, hired a person to show him the road to Kirkwall, the principal place on the islands, and about twelve miles distant from the bay where the ship lay at anchor. Here he applied to a magistrate; said he had been forced into the service, and begged that he might be entitled to the protection of the law, as the fear of death alone had induced him to be connected with the pirates. Having given a full account of their irregular proceeding, the sheriff issued his precepts to the constables and other peace officers, to call in the aid of the people, to assist in bringing those villains to justice.

About this juncture, ten of Gow's sailors, who had likewise taken an involuntary part with the pirates, seized the long-boat, and having made the main land of Scotland, coasted the country till they arrived at Edinburgh, where they were imprisoned on suspicion of being pirates. Notwithstanding these alarming circumstances, Gow was so careless of his own safety, that he did not put immediately to sea, but resolved to plunder the houses of the gentlemen on the coast, to furnish himself with fresh provisions.

In pursuance of this resolution, he sent his boatswain and ten armed men to the house of Mr. Honeyman, high sheriff of the county; and the master being absent, the servants opened the door, without suspicion: nine of the gang went into the house to search for treasure, while the tenth was left to guard the door. Mrs. Honeyman running to the door, saw the man who stood guard there, of whom she asked the meaning of the outrage; to which he calmly replied, that they were pirates, and had come thither only to ransack the house; recollecting that she had a considerable quantity of gold in a bag, she returned and put it in her lap, and ran by the man at the door, who had no idea but that she ran to preserve her life. The boatswain, not finding money, declared that he would destroy the family writings, if cash was not produced; but this being overheard by Miss Honeyman, she threw the writings out of the window, and jumped out after them (it being a low house), escaped unhurt, and carried them off. In the interim, the pirates seized the linen, plate, and other valuable articles, and then walked in triumph to their boat, compelling one of the servants to play before them on the bagpipes.

On the following day they weighed anchor; but on the evening of the same day, came again to anchor near another island. Here the boatswain and some men were sent on shore in search of plunder, but did not succeed. They then sailed to an island called Calf Sound, with an intention of robbing the house of Mr. Fea, who had been an old school-fellow with Gow. His house was situated near the sea-shore: he had servants at home when the pirates appeared off the coast, but they were by no means equal to a contest with the plunderers. Gow having incautiously cast his anchor too near the shore, so that the wind could not bring him off, sent a boat with a letter to Mr. Fea, requesting that he would lend him another boat, to assist him in heaving off the ship, by carrying out an anchor; and assuring him that he would not do the least injury to any individual. As Gow's messenger did not see Mr. Fea's boat, the latter gave him an evasive answer; and on the approach of night, ordered his servants to sink his own boat, and hide the sails and rigging. While they were obeying this order, five of Gow's men came on shore in the boat, and proceeded doubly armed towards Fea's house.

Mr. Fea represented how dangerous it would be for him to assist them, in lending them the boat, on account of the reports circulated to their discredit;

but he offered to entertain them at an adjacent alehouse, and they accepted the invitation, as they observed he had no company. While they were drinking, Mr. Fea ordered his servants to destroy their boat, and when they had done so, to call him hastily out of company, and inform him of it. These orders were exactly complied with; and, when he left the pirates, he directed six men, well armed, to station themselves behind a hedge, and if they observed him come alone with the boatswain, instantly to seize him; but if he came with all the five desperadoes, he would walk forward, so as to give them an opportunity of firing without wounding himself.

After giving these orders Fea returned to the company, whom he invited to his house, on the promise of their behaving peaceably, and said he would make them heartily welcome. They all expressed a readiness to attend him, in the hope of getting the boat; but he told them, he would rather have the boatswain's company only, and would afterwards send for his companions. This being agreed to, the boatswain set forward with two braces of pistols; and walking with Mr. Fea, till they came to the hedge where his men were concealed, he then seized him by the collar, while the others took him into custody, before he had time to make any defence. The boatswain called aloud for his men; but Mr. Fea forcing a handkerchief into his mouth, bound him hand and foot, and then left one of his own people to guard him, while himself and the rest went back to the public house. There being two doors to the house, they entered by each, and rushing in at once, they made prisoners of the other four men, before they had time to take up their arms for defence. The five pirates, being thus in custody, were sent to an adjacent village, and separately confined; in the interim, Mr. Fea sent messengers round the island, to acquaint the inhabitants with what had been done; desiring them to haul their boats on the beach, that the pirates should not swim to and steal them; and requesting that no person would venture to row within reach of the pirate's guns.

At length, by an equal exertion of courage and artifice, Mr. Fea captured these dangerous men, twenty-eight in number, without a single man being killed or wounded; and only with the aid of a few countrymen. When the prisoners were properly secured, Mr. Fea sent an express to Edinburgh, requesting that proper persons might be sent to conduct them to that city. As soon as his express arrived, another was forwarded to London, to learn the royal pleasure respecting the disposal of the pirates; and the answer brought was, that the lord chief-justice clerk should immediately send them to London, in order to their being tried by a court of admiralty, to be held for that purpose. When these orders reached Edinburgh, a guard of soldiers marched to escort them to that city; and on their arrival, they were put on board the Greyhound frigate, which immediately sailed for the Thames. A commission was now made out for their trial; and soon after their commitment, they underwent separate examinations before the judges of the admiralty court, in Doctor's Commons, when five of them were admitted evidences against their accomplices.

Being removed from the Marshalsea to Newgate, their trials came on at the Old Bailey. Gow at first refused to plead; in consequence of which, he was sentenced to be pressed to death in the usual manner. His reason for this refusal was, that he had an estate which he wished might descend to a relation, and which would have been the case had he died under the pressure; but when the proper officers were about to inflict this punishment, he begged to be taken again to the bar to plead, of which the judge being informed, humanely granted his request; consequently, he, and six others, were convicted, and received sentence of death: but the rest were acquitted, as it appeared they acted by compulsion.

They suffered at Execution-dock, August 11, 1729. Gow's friends, anxious to put him out of pain, pulled his legs so forcibly that the rope broke, and he fell, on which he was again taken up to the gibbet, and when he was dead, was hung in chains on the banks of the Thames.

WILLIAM BURKE AND HELEN M'DOUGAL,

FOR MURDER.

About twenty minutes before ten o'clock, the prisoners, William Burke and Helen M'Dougal, were placed at the bar. The male prisoner, a native of Ireland, was rather below the middle size, but stoutly made, and of a determined, though not peculiarly sinister expression of countenance. He had high cheek bones, gray eyes, sunk in the head, a short snubbish nose, a round chin, hair and whiskers of a light sandy colour, and a complexion of nearly the same hue. The female prisoner was of the middle size, but thin and spare, though of large bone. Her features were long, and the upper half of her face was out of proportion to the lower. She was miserably dressed, in a small gray-coloured velvet bonnet, very much the worse for the wear, a printed cotton shawl, and a cotton gown.

The judges present were, the right honourable the lord justice Clerk, and lords Pitmilly, Meadowbank, and Mackenzie. The instance having been called,

Mr. Patrick Robertson and Mr. Cockburn objected to the reading of the indictment, because it was calculated to prejudice the prisoner. It contained charges, they said, the reading of which could not fail to operate against the prisoners and which made no legal part of the libel.

Lord Meadowbank.—I am against novelties; I am against interfering with the discretion of the court.

The indictment was then read as follows:—" William Burke and Helen M'Dougal, both present prisoners in the Tolbooth of Edinburgh, you are indicted and accused, at the instance of Sir William Rae of St. Catharine's, baronet, his majesty's advocate for his majesty's interest; That albeit by the laws of this and of every other well governed realm, murder is a crime of an heinous nature and severely punishable; yet true it is, and of verity, that you, the said Wm. Burke and Helen M'Dougal, are both and each, or one or other of you, guilty of the said crime, actor or art and part: In so far as, on one or other of the days between the 7th and 16th days of April, 1828, or on one or other of the days of that month, or of March immediately preceding, or of May immediately following, within the house in Gibb's Close, Canongate, Edinburgh, then and now or lately in the occupation of Constantine Burke, then and now or lately scavenger in the employment of the Edinburgh police establishment, you the said William Burke did wickedly and feloniously place or lay your body or person, or part thereof, over or upon the breast or person and face of Mary Paterson or Mitchell, then or recently before that time, or formerly residing, with Isabella Burnet, or Worthington, then and now or lately residing in Leith-street, in or near Edinburgh, when she the said Mary Paterson or Mitchell was lying in the said house, in a state of intoxication, did, by the pressure thereof, and by covering her mouth and nose with your body or person, and forcibly compressing her throat with your hands, and forcibly keeping her down, notwithstanding her resistance, or in some other way to the prosecutor unknown, preventing her from breathing, suffocate or strangle her; and the said Mary Paterson or Mitchell was thus, by the said means or part thereof, or by some other means or violence, the particulars of which are to the prosecutor unknown, wickedly bereaved of life by you the said William Burke; and this you did with the wicked aforethought intent of disposing of, or selling the body of the said Mary Paterson or Mitchell, when so murdered, to a physician or surgeon, or some person in the employment of a physician or surgeon, as a subject for dissection, or with some other wicked and felonious intent to the prosecutor unknown. (2.) Further, on one or other of the days, between the 5th and 26th days of October, 1828,

or on one or other of the days of that month, or of September immediately preceding, or of November immediately following, within the house situated in Tanner's Close, Portsburgh, or Wester Portsburgh, in or near Edinburgh, then and now or lately in the occupation of William Haire or Hare, then and now or lately labourer, you the said William Burke did wickedly and feloniously attack and assault James Wilson, commonly called or known by the name of Daft Jamie, then or lately residing in the house of James Downie, then and now or lately porter, and then and now or lately residing in Stevenlaw's Close, High-street, Edinburgh, and did leap or throw yourself upon him, when the said James Wilson was lying in the said house, and he having sprung up, you did struggle with him, and did bring him to the ground, and you did place or lay your body or person or part thereof over or upon the person or body, and face of the said James Wilson, and did by the pressure thereof, and by covering his mouth and nose with your person or body, and forcibly keeping him down, and compressing his mouth, nose, and throat, notwithstanding every resistance on his part, and thereby, or in some other manner to the prosecutor unknown, preventing him from breathing, suffocate or strangle him; and the said James Wilson was thus, by the said means, or part of them, or by some other means or violence, the particulars of which are to the prosecutor unknown, wickedly bereaved of life and murdered by you the said William Burke; and this you did with the wicked aforethought and intent of disposing of or selling the body of the said James Wilson, when so murdered, to a physician or surgeon, or to some person in the employment of a physician or surgeon, as a subject for dissection, or with some other wicked and felonious intent or purpose, to the prosecutor unknown. (3.) Further, on Friday, the 31st day of October, 1828, or on one or other of the days of that month, or of September immediately preceding, or of November immediately following, within the house then or lately occupied by you the said William Burke, situated in that street of Portsburgh, or Wester Portsburgh, in or near Edinburgh, which runs from the Grassmarket of Edinburgh to Main Point, in or near Edinburgh, and on the north side of the said street, and having an access thereto by a trance or passage entering from the street last above libelled, and having also an entrance from a court or back court on the north thereof, the name of which is to the prosecutor unknown, you the said William Burke and Helen M'Dougal, did both and each, or one or other of you, wickedly and feloniously place or lay your bodies or persons, or part thereof, on the body or person or part thereof, of one or other of you, over or upon the person or body and face of Madgy or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, then or lately residing in the house of Roderick Stewart or Stuart, then and now or lately labourer, and then and now or lately residing in the Pleasance, in or near Edinburgh; when she, the said Madgy or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, was lying on the ground, and did, by the pressure thereof, and by covering her mouth and the rest of her face with your bodies or persons, or the body or person of one or other of you, and by grasping her by the throat, and keeping her mouth and nostrils shut, with your hands, and thereby, or in some other way to the prosecutor unknown, preventing her from breathing, suffocate or strangle her; and the said Madgy or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, was thus, by the said means, or part thereof, or by some other means or violence, the particulars of which are to the prosecutor unknown, wickedly bereaved of life, and murdered by you the said William Burke, and you the said Helen M'Dougal, or one or other of you; and thus you, both and each, or one or other of you, did, with the wicked aforethought and intent of disposing of or selling the body of the said Madgy, or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, when so murdered, to a physician or surgeon, or to some person in the employment of a physician or surgeon, as a subject for dissection, or with some other wicked and felonious intent or

purpose to the prosecutor unknown: And you, the said William Burke, having been taken before George Tait, Esq. sheriff substitute of the shire of Edinburgh, you did in his presence, at Edinburgh, emit and subscribe five several declarations of the dates respectively following, viz:—The 3d, 10th, 19th, and 29th days of November, and 4th day of December, 1828. And you, the said Helen M'Dougal, having been taken before the said sheriff substitute, you did in his presence, at Edinburgh, emit two several declarations, one upon the 3d and another upon the 10th days of November, 1828, which declarations were each of them respectively subscribed in your presence by the said sheriff substitute, you having declared you could not write: which declarations being to be used in evidence against each of you by whom the same were respectively emitted; as also the skirt of a gown; as also a petticoat; as also a brass snuff-box, and a snuff-spoon, a black coat, a black waistcoat, a pair of moleskin trowsers, and a cotton handkerchief or neckcloth, to all of which sealed labels are now attached, being to be used in evidence against you, the said William Burke; as also a coarse linen sheet, a coarse pillow-case, a dark printed cotton gown, a red striped cotton bed-gown, to which a sealed label is now attached; as also a wooden box; as also a plan entitled, 'plan of houses in Wester Portsburgh and places adjacent,' and bearing to be dated Edinburgh, 20th of November, 1828, and to be signed by James Braidwood, 22, Society, being all to be used in evidence against both and each of you, the said William Burke and Helen M'Dougal, at your trial, will for that purpose be in due time lodged in the hands of the clerk of the high court of justiciary, before which you are about to be tried, that you may have an opportunity of seeing the same. All which, or part thereof, being found proven by the verdict of an assize, or admitted by the respective judicial confessions of you, the said William Burke and Helen M'Dougal, &c. you ought to be punished with the pains of law, to deter others from committing the like crimes in all time coming."

Dean of Faculty.—We have given in separate defences, which may now be read, beginning with the defences for the male prisoner.

The defences for Burke were then read as follows:—

The panel submits, that he is not bound to plead to, or to be tried upon, a libel, which not only charges him with three unconnected murders, committed each at a different time, and at a different place, but also combines his trial with that of another panel, who is not even alleged to have had any concern with two of the offences of which he is accused. Such an accumulation of offences and panels is contrary to the general and the better practice of the court; it is inconsistent with the right principle, and, indeed, so far as the panel can discover, is altogether unprecedented; it is totally unnecessary for the ends of public justice, and greatly distracts and prejudices the accused in their defence. It is therefore submitted that the libel is completely vitiated by this accumulation, and cannot be maintained as containing a proper criminal charge. On the merits of the case, the panel has only to state that he is not guilty, and that he rests his defence on a denial of the facts set forth in the libel.

The defences for Helen M'Dougal were next read as follows:—

If it shall be decided that the prisoner is obliged to answer to this indictment at all, her answer to it is, that she is not guilty, and that the prosecutor cannot prove the facts on which his charge rests. But she humbly submits that she is not bound to plead to it. She is accused of one murder committed in October, 1828, in a house in Portsburgh, and of no other offence. Yet she is placed in an indictment along with a different person, who is accused of other two murders, each of them committed at a different time, and at a different place, it not being alleged that she had any connexion with either of these crimes. This accumulation of panels and of offences is not necessary for public justice, and exposes the accused to intolerable prejudice, and is not warranted, so far as can be ascertained, even by a single precedent.

Their lordships then delivered their opinions consecutively; the substance of which was, that, upon the principle, they repelled the objections and sustained the charges as laid, but, in respect of the statement made on the part of prisoners, that putting them upon their trials on all the three charges at once would prejudice their defence, the court, in the exercise of the discretion which had been appealed to, ordained the public prosecutor to go to trial upon the charges *seriatim*, and to make his election as to which of the three he was to commence with.

The lord advocate had previously intimated an intention to desert the diet, *pro loco et tempore*, against Helen M'Dougal; but, on this decision of the court being announced, he stated his determination to proceed with the last charge in the indictment, namely, that for the murder of the woman Campbell, or Duffie, or Docherty, which applied equally to both prisoners; and the trial on this charge proceeded accordingly.

The lord justice clerk now asked the prisoners, if they were guilty or not guilty of the third charge?—when they both answered "not guilty."

The jury were then chosen.

The first witness called was Mr. Braidwood, of the fire establishment, who identified a plan drawn by him of some houses in West Port, the residence of Burke, and scene of the alleged murder.

Mary Stewart remembered a young man of the name of Michael Campbell coming to her house some time after the harvest—it was before Martinmas. He remained there about two months, and left the house on the Monday before the fast-day. She was lying in the infirmary at this time, but, on returning home, she found a woman in her house, who, Campbell said, was his mother. She said she had come in search of her son, giving her name Madgy or Margery Campbell, and stated that the name of her former husband was Duffie; she said she came from Glasgow. The woman left the house on the morning of Friday, the 31st of October. It was Hallowe'en; she said, when she went out, that she was going to see after her son, who had left the house some time before. One Charles M'Lauchlin and Mrs. Campbell went out together; and she never saw her again, until she saw her body in the police office on the Sabbath following. The woman left the house dressed in a black bombazet petticoat, an old much-patched striped gown next her waistcoat, and dark printed gown with short sleeves, open before, and in some places sewed with white thread. The witness identified the rags which the poor woman had worn when she left witness's house.

By the Court.—Witness supposed Mrs. Campbell to be between forty and fifty. She was a little, low, broad-set woman. She appeared in good health when she left. Never saw her the worse for liquor.

Charles M'Lauchlin corroborated the former witness. The woman, represented as Campbell's mother, said, her maiden name was Margery M'Gonegal. She was called Campbell, after a first husband, and sometimes Duffie, after a second. Witness parted with her at the foot of St. Mary's Wynd. Did not think that she had any money; but never heard her complain of want, nor did he know that she begged. Her son paid for her lodging. He saw her dead body in the police office on the 2d of November.

William Noble, shopman with Mr. Rymer, Portsburgh, knew the prisoner Burke; had seen him come about the shop. A man of the name of Hare also came about the shop. Recollected a little middle-aged woman coming to the shop on Friday the 31st of October, about nine o'clock, asking charity. Burke was in the shop at the time. Burke asked her name; she said it was Docherty, and he replied, that she was some relation of his mother's; but he did not say what his mother's name was. Did not recollect, if they appeared acquainted when they first met. Burke took the woman away with him, saying he would give her breakfast; saw Burke again, in the forenoon, buying some groceries; and, on the Saturday, he

came back between five and six in the evening, and purchased an old tea-box. It was taken away to Mrs. Hare's, who came and got it away within half an hour after it had been purchased by Burke.

Ann Black, or Connaway, lived in Wester Portsburgh. Her house consisted of one room. To enter her house you went down a few steps and through a passage. The door to her house was the first you came to, and a little farther in there was a door on the same side—but first there was another passage, at the end of which there was another door leading to a room—a room enclosed by two doors. Burke, the prisoner, occupied that inner room in October. The other prisoner, M'Dougal, lived with Burke. There was a house on the opposite side of the first passage, occupied by a Mr. Law. Had seen Hare and his wife coming about Burke. During that week of October, a man named Gray and his wife lived a few days in Burke's house. On Friday, the 31st of October (Hallowe'en), about mid-day, witness saw Burke pass along the passage, going inward, with a woman following him. She was a stranger, whom witness had never before seen. Mrs. Law was sitting with witness. In the afternoon, about three o'clock, witness went into Burke's house, and found the woman, whom she had seen go in with Burke, sitting at the fire supping porridge and milk. She had her head tied up in a handkerchief, and no gown; they said they had been washing. Was not sure of her having on any thing but a shift and the handkerchief. Witness said to M'Dougal, "I see you have got a stranger;" and she replied, they had got a friend of her husband's, a Highland woman. Had no further conversation at that time, and saw nothing to induce her to suppose that the woman was drunk. Some time after dark, M'Dougal came and asked witness to take care of her door till she returned. As there was no person in the house, witness's husband, who was sitting at the fire, said he thought there was somebody gone into Burke's. She in consequence took a light, and went in, when she saw no one there but the woman, who came towards the door, being then the worse for drink. She said, that she was going to St. Mary's Wynd to meet a boy who had promised to bring her word from her son; and asked the name of the land of houses, that she might find her way back, for she had no money to pay for a bed. Witness told her not to go away, for she would not get her way back; and she did not go. She told witness that Burke, whose name she called Docherty, had promised her a bed and her supper. She came into witness's house, and had a good deal of conversation with witness's husband. She said, as Docherty had promised her a bed and supper, she was to stay for a fortnight. She was the worse for liquor; and insisted on calling Burke Docherty, for she said that was the name he called himself to her. She remained in the house for about an hour, and, while there, the prisoner (M'Dougal) and Mr. and Mrs. Hare came in; Mrs. Hare had a bottle, and Hare insisted on drinking; they all tasted, and witness's husband gave them a dram. The stranger partook of it, and so did M'Dougal. They were merry. Hare, Campbell, and M'Dougal were dancing. The woman was quite well; she had hurt her foot, but otherwise she was in good health. Mrs. Campbell remained in the house a long time, refusing to go until Burke came home; he had been out the most of the night. Witness insisted on her going out, but she would not, until Burke went in; and, on witness observing Burke passing to his house, between ten and eleven, she informed Mrs. Campbell, who rose and followed him into his house. Witness did not sleep, in consequence of the disturbance in Burke's house, which commenced after Mrs. Campbell went in. The disturbance was as if Burke and Hare were fighting. Witness got up between three and four, to make her husband's breakfast, but went again to bed, and rose about eight o'clock. The first thing she then heard was Hare calling for Mrs. Law, who did not answer him. A little while after, a girl, whose name she understood to be Paterson, came and asked for her husband; it turned out that it was Burke she wanted. Witness

directed the girl into Burke's. M'Dougal came into witness's house, and said that William (Burke) wanted to speak to her. She went in accordingly, and found there M'Dougal, Burke, Mrs. Law, and young Broggan. Burke had a bottle of spirits in his hand. He filled out a glass and then dashed out the spirits upon a bed. Witness asked him, why he wasted the spirits; and he replied, he wanted to get more. Witness asked M'Dougal, what had become of the old woman? and she replied, that Burke and she had been too friendly together, and she had kicked her out of the house, asking, at the same time, "did you hear it?" Burke asked, if the witness had heard the dispute between him and Hare? and she said no; he added, it was only a fit of drink, and they were friends enough now. They were all quiet before she got up to make her husband's breakfast, and she heard no more till after eight o'clock. Burke's wife sung a song, while witness was in the house. Observed a bundle of straw at the bottom of the bed; it had lain there most of the summer. Witness left Burke's house a little after ten. Was there again in the afternoon; was asked in by Mrs. Gray. Burke, Broggan, and M'Dougal were there. At a later hour, near eight o'clock, she went in again with Gray's wife, to see what the latter had told her of; she saw nothing; she was so frightened that she came out without seeing any thing; the straw was turned. Did not see Burke till far on in the night, when it was reported that he had murdered a woman. Witness's husband told Burke, that Gray had seen a corpse in the house, and he had gone for the police; and Burke said he would go and find him. Mrs. Burke laughed very loud, and he said, he defied all Scotland, for he had done nothing he cared about. When he went to the passage, the police apprehended him.

Janet Laurie, or Law, lived in October last in the same passage with the panels and Connaway and his wife. Remembered being in Connaway's house about two o'clock on the 31st of October; recollected seeing Burke in the passage, and a little woman following him. They went into Burke's house. Hare and his wife were in Burke's that evening betwixt six and seven o'clock. The little woman was there likewise. Witness remained in Burke's house about twenty minutes; she went to bed about half-past nine o'clock, and during the night heard the noise of dancing and merriment, and of people scuffling. The noise was great; but she was not sensible of any other one's voice but Burke's. This noise lasted for some time, and she fell asleep. In the morning Mrs. Burke came in for the loan of a pair of bellows, and asked, if witness had heard Burke and Hare fighting. Witness asked what she had done with the little woman during the fight; she answered, that she had kicked the d—d b—h of h–ll to the door, because she had been using too much freedom with William—meaning Burke. She went away, and returned about nine, the conversation having taken place about eight o'clock. Mrs. Burke asked witness to go into her house, which she did, and found there Burke, Broggan, Hare, and M'Dougal, and, before she left the house, Gray and his wife came in. Burke took a bottle which had some spirits in it, and sprinkled the ceiling and about the bed, saying he did so because none would drink it. At the foot of the bed there was a good deal of straw lying; it had lain there for some time. The circumstances of which she spoke took place on Saturday morning, and Burke was taken into custody that evening. Was shown a dead body next day (Sunday) in the police office. She recognised it as the body of the same woman she had seen alive on Friday night.

Hugh Alston lived in the same house in which Burke lived. He was in the flat above the shops, and Burke in that below them. Heard a noise on the 31st of October about eleven o'clock, as he was going along the passage that leads to his own house. His attention was attracted by the cries of a woman, of "murder." Witness went down to the flat on which Burke's house was, halting within a yard of Connaway's door, and then he listened. Heard the noise of two men as if wrangling and struggling, and a woman

crying murder, but not in such a manner as to make him consider her in imminent danger. That continued for about a minute, and then he heard a cry as if a person had been strangled, such a cry as an animal might utter when strangled. Heard no noise of struggling. The same female's voice that had cried murder, was struck as by the soft part of the hand, and called "police, for there is murder here." Witness went for the police, but could not find any of them. He was often alarmed by cries, and was afraid of fire, but never thought of murder. He returned a second time, and heard the sound of the men's voices, who were speaking in a lower tone; the woman had ceased crying, and he went to his own house. He might have heard feet moving on the floor, but he could not say the sound was louder. He was about three yards from the door that leads to Burke's house, when he heard the three remarkable sounds. On the evening of the Saturday, he heard of a body being found, which enabled him to fix the circumstance in his memory.

Elizabeth Paterson lives in Wester Portsburgh; Burke came to her mother's house on Friday, the 31st October. He came about ten o'clock, and asked for her brother David, who not being in, he went away. Next morning she went, at her brother's desire, to ask for Burke, and got a direction to his house from Mrs. Law.

David Paterson, keeper of the museum belonging to Dr. Knox, knows the prisoner by sight. Witness went home on the 31st of October, about twelve o'clock, and found Burke knocking at the door. He said to witness, that he wished to see him at his house, and he accordingly went there with him. He found in it two men, including Burke; there might be more, but he did not recollect of more. There were also two women. After he went in, Burke said, he had procured something for the doctor, and pointed to the head of a bed where some straw was lying. The observation was made in an under voice, but not in a whisper. He might be so close to him as to touch him. No observation was made by any of the other persons. Nothing was shown to witness, but he understood, when Burke said he had procured something for the doctor, that he alluded to a dead body. His words were, he had procured something, or there were something for the doctor, and used the expression "to-morrow." There was a sufficiency of straw in the corner to have concealed a dead body. M'Dougal was one of the females, and he thought he should know the other. Had no further conversation with Burke about what he had got for the doctor. Witness sent his sister, about nine o'clock next morning, for Burke. [Witness was here shown Hare and his wife, whom he identified as the other persons that were in the house along with Burke, on the 31st October.] Burke came next morning about nine, and witness said, if he had any thing to give Dr. Knox, to take it to him, and settle with himself. He meant a subject to dispose of; and Burke went away. He saw him again, in one of Dr. Knox's rooms, in Surgeon's-square, along with Hare, Mr. Jones, Dr. Knox's assistant, and the doctor. Heard either Burke or Hare say they had a dead body or subject, which they were to bring at night, and witness was instructed by Dr. Knox to receive any package which they might bring. Witness and Mr. Jones were in the way about seven o'clock, when Burke, Hare, and a porter named M'Culloch, came with an old tea-chest. It was put into a cellar, the door locked, and witness and Mr. Jones went to Dr. Knox's house, and informed him the men had brought what was expected. The men and the porter followed, or had preceded witness and Jones, for, when he came out, he found them at the end of Newington. Dr. Knox gave witness five pounds, which, to prevent disputes, he was to divide; and having gone to a house and obtained change, he laid the money on a table, and each took his share, leaving the sum to the porter that had been bargained for. Five pounds was not the whole price understood to be paid; the balance was to be paid on Monday, when Dr. Knox saw what had been

brought. The price, he believed, was generally eight pounds, but no bargain was made. On the Sunday morning, lieutenant Paterson of the police, and sergeant-major Fisher, called on him, and he went with them—opened the door of the cellar, and gave the package to them, which had been left the night before. It was given up in the same state in which it had been left the night before. The package was fastened with ropes. He assisted in opening the box; it contained the body of an elderly female, who did not appear to have been interred. The extremities were doubled up on the chest and thorax. The head was pressed down as if for want of room. At the request of the lieutenant of police, he examined the body externally stretched on a table. The face was very livid, and blood flowing from the mouth. In his opinion, the appearance of the countenance indicated strangulation or suffocation, by being overlaid. He found no other external marks upon the body that would be supposed to cause death. He was not present at the dissection of the body. The eyes were not started, nor did the tongue hang out. The head was a good deal pressed down for want of room. Observed no marks about the throat. The lips and nose were dark coloured, and a little stained with blood.

By the Dean of Faculty.—His reason for saying death had been caused by suffocation was, that the blood in a strangled or suffocated person rises to the head, and gives the face a livid appearance. He had seen the man Hare before; and knew that Dr. Knox had dealings with him for the procuring of dead bodies. He also had had dealings with Burke; they seemed to act jointly. Had seen both assume the principal part. They frequently brought subjects which he supposed had not been interred. They frequently brought subjects to the lecture-rooms. Had heard of a class of persons who provided bodies which never had been interred. Had known young men, attending poor patients who died, give information of that fact to Dr. Knox, who handed over the direction to such persons to endeavour to make a purchase. In one instance, a note was given to himself, and he handed it to these men, but the purchase was not made on that occasion.

By a Juryman.—Could not say M'Dougal heard what Burke said in an under tone. The room, however, was small, and all might possibly have heard what was said.

By the Dean of Faculty.—Both of the men were the worse of liquor, when he went to Burke's, but not so much as not to know what they were doing.

John Broggan was in Burke's house on the afternoon of Hallowe'en. Burke and his wife, and Hare and his wife, were there. An old woman, a stranger, was also there, whom he left in the house at seven o'clock. He returned to the house about two in the morning, when he found Hare and his wife, besides the prisoner and his wife. Hare and Burke were talking at the window. He fell asleep at the fireside, beside the woman, and Hare and Burke were in the bed. He left Burke's about seven in the evening, and returned again early in the morning. The prisoner and his wife, Hare and his wife, and Mr. and Mrs. Gray were present. Some one asked what had become of the spae-wife, and the female prisoner answered, she seemed to be very "fashious"—asked for warm and cold water, and flannel, to wash herself with; that the two men began a fighting, when the old woman roared out murder; that she, M'Dougal, gave her a kick, and thrust her out of the house, for an old Irish ——. In the forenoon, he saw William Burke fling whiskey up to the roof of the house, then into his own bosom, and afterwards upon the bed. Burke crept under the bed, and when he did so, he had a cup with whiskey in his hand. Saw him come out again with the cup in his hand. Burke desired witness to sit down on a chair at the foot of the bed, and not to move off it, until he returned. M'Dougal was then in the house, and must have heard the direction given not to move off the chair. When he left the room, Gray and his wife, and Burke and his wife, were left behind.

Mrs. Gray was acquainted with the prisoners. Had, along with her hus-

band, lodged five nights in their house. Recollected seeing an old woman come there on the night of the 31st October. She seemed between forty and fifty years of age. She was dressed in a dark printed gown, having a striped bed-gown under it. She gave her name Docherty. Witness proceeded to state, that Burke took her into the room, when he said, that, as witness and her husband had been quarrelling, he insisted on their leaving his house. She said they had not been quarrelling. He, however, insisted on their going out, and said, he would pay for their lodgings that night, and desired them to go to William Hare's. Witness went out with Hare's wife. She returned to the house about nine o'clock, for some of her child's clothes, and found the old woman singing, the other females dancing, and the men drinking. In the early part of the afternoon, the old woman wished to go out, but, being the worse of liquor, Mrs. Burke would not allow her to go. Witness returned to Hare's, but did not go to bed till eleven o'clock. Mrs. Hare and M'Dougal, also Burke and Hare, came, and, after having some supper, went out, and did not again return for the evening. Went to Burke's in the morning, and found there Mrs. Law, Mrs. Connaway, and Mrs. Burke, who said she had turned the old woman out because she had been impudent. The old woman was the worse of liquor the night before. Mrs. Hare forced the liquor on her. Went in the morning to the straw to look for a pair of child's stockings. Burke told her, with an oath, to keep out from them. Saw him throwing spirits throughout the house, saying he wanted the bottle empty to get more. Witness was desired to put on potatoes; she went to gather them from under the bed, and having a pipe in her mouth, Burke desired her to come out, asking, what was she doing there with a pipe. She, however, gathered the potatoes. Recollected Burke, on going out, desiring Broggan to sit on a chair close to the straw till he returned. Broggan did not stop many minutes after this. Just before it became dark, she discovered a dead body in the house. This was a little before Broggan went out. The body was under the straw at the foot of the bed. From the throwing of the whiskey about, she began to think all was not right, and she lifted up the straw, and the first thing she got hold of was the woman's right arm. The woman was Mary Docherty, whom she had seen the night before. There were no clothes on her. Her husband lifted up the head by the hair, and saw blood on the face and about the mouth. The body was lying on the right side, with the face to the wall. Her husband immediately took up their small bundles, and left the house; and, in going up the step, she met Mrs. Burke, to whom he mentioned what he had seen. She told him to hold his tongue; she would give him two or three shillings, and it might be worth ten pounds per week. Her husband went away, but witness returned to the house with Mrs. Burke, and said to her, that is the woman who was singing last night, and was now dead. Mrs. Burke said to witness, she would give her five or six shillings, if she would hold her tongue; and repeated, that, if her husband would be quiet, it might be worth ten pounds per week to him. Witness replied, "God forbid that I should be worth money by dead people." Witness's husband gave information to the police. Saw the body at the police; it was that of Mrs. Docherty.

James Gray corroborated the testimony of his wife. Was in Burke's when his wife found a dead body, with its head to the wall, and the feet under the bed. The corpse was covered with straw. He knew it to be the woman he had seen there the night before. He instantly packed up the little things he had, and left the house, but, in going up-stairs, he met Mrs. Burke. He asked, "What was that she had in the house?" She said, "What is it?" He replied, "You know, I suppose." She instantly fell on her knees, and implored him not to inform. She offered him four or five shillings, to put him over till Monday, and added, there was not a week afterwards but I might be worth ten pounds of money. Witness replied, "My conscience will not allow me do it;" and he heard her repeat nearly the same words

over again to his wife. The words used to his wife were to the same effect as those used on the stair to him. She also certainly did say, "She could not help it." Mrs. Burke followed them to the street, where they met Mrs. Hare, who asked them to go into a public-house, and they did go in for some time, after which he went and informed the police.

By the Court.—Turned up the face of the body, which was quite shocking to look at; but he looked little at it after recognising the body. There was some blood on the face.

John M'Culloch proved, that he carried the body to the surgeon's, and received for his trouble, from Paterson, five shillings. There had been so much trouble in getting the body into the tea-box that it had to be racked.

John Fisher, late sergeant-major of the Edinburgh police, had, on the information of Gray, searched Burke's house. Burke and his wife contradicted each other as to the time they said the deceased went away. Found a quantity of fresh blood under the bed. Went next morning to a cellar of Dr. Knox's, where a box, containing the body of a woman, quite naked, was found. Gray was sent for, who recognised the body as that of the woman. The body was afterwards taken to the police-office, when it was shown to the witnesses and the prisoners. The latter denied all knowledge of ever having seen the body, either dead or alive. Went back to Burke's house, on the Sunday, and found a dark printed gown.

By the Dean of Faculty.—Hare denied having seen the body, either dead or alive. All the parties denied it.

William Hare.—Having been sworn in the common form, was asked if he were a Catholic? He answered, he was. It was then asked, if he wished to be sworn in any other way? He said, he did not know; he never had taken an oath before, and the form was all one, he supposed.

The examination proceeded. He had been acquainted with Burke about a twelvemonth. M'Dougal lived with Burke as his wife. Witness lived in the West Port, not far from Burke. Was in a public-house in the West Port, on the forenoon of the 31st October, when they had a gill. He asked witness to go down to his house, to see the *shot* he had got to take to the doctor's. He said he had taken an old woman off the street, and wished witness to go down and see her, and see what they were doing. Understood by the word *shot* that he was going to murder the woman. He went down to Burke's house, and found there a strange man and a woman (their name was Gray), the old woman, and Helen M'Dougal. Witness remained in the house about five minutes, and then went home. Was in Connaway's between eight and nine o'clock, on Hallowe'en night. There were Connaway and his wife, William Burke, and John Broggan, and another lad whom he did not know, the old woman, Helen M'Dougal, and witness's wife. They had some drink there. Burke, Broggan, and the lad went out; but witness remained later, and went into Burke's, leaving the old woman in Connaway's. Was not long there, till Burke himself and the old woman came in. She was so much the worse of drink, as hardly to be able to keep her feet. There was some dancing in Connaway's. At this time, he did not think that any harm was to happen to the old woman that night. When in Burke's, some words took place between him and the witness—and blows ensued. He asked, what had brought him there? and, he replied, he had been invited by M'Dougal. While they were struggling, the old woman ran twice into the passage, and called out, either murder or police. Helen M'Dougal brought her back both times. While witness and Burke were struggling, he (Hare) pushed her over a stool. She got up, so as to rest upon her elbow, but was so drunk as not to be able to regain her feet. She was always calling on Burke to quit fighting, and he did so. Having stood for some minutes on the floor, Burke stood stride legs over her, and laid himself down above her; his breast being on her head, she cried, and then moaned a little. He put one hand on her nose and mouth, and the other under her chin, and stopped

her breathing; this was continued for ten or fifteen minutes. He never spoke while this was going on; after he had arisen from above her, he put his arm upon her mouth for some minutes. She appeared quite dead. Witness was sitting all the while on a chair. He stripped the body of the clothes, put it into a corner, doubling it up, and covering it with straw. Witness's wife and M'Dougal, when they heard the first screech of the old woman, ran into the passage, and did not come in again until the body was covered with the straw. Before this, they were lying in the bed; and witness sat at the head of the bed. Did not observe blood on the floor, or on the woman's face at the time. Did not observe the women in the passage cry; but nobody came to the door during the time. Burke had not been above the woman a minute or two, when the women started out of bed and ran to the door. None of them attempted to save or assist the old woman, and they could not have done so without his seeing it. Saw them come again, and Burke go out, when he was absent a few minutes. The women asked no questions, and he made no remark. The women went to their beds again. Neither asked for the woman Docherty. When Burke returned, he brought the doctor's man with him, a person who lived a little down the West Port. Burke wished the doctor's man to look at the body, but he said, it would do well enough to get a box, and put it into. The women were in the bed, while the man was in the house, but he could not tell whether they were awake or not. Witness fell asleep himself; he was rather the worse for liquor, but he knew well enough what he was about. He awoke about seven o'clock in the morning; he found himself on a chair, with his head on the bed. The women were in the bed, and a lad named John Broggan, who was lying beyond his aunt. Burke was at the fireside. He and his wife got up and went home, when they found Gray and his wife there. Burke called witness into Rymer's shop, and wished him to go with him to Surgeons'-square, which witness agreed to do, after he fed the swine. They went to Surgeons'-square, where Burke inquired for a box, but they did not get one. He said, he bespoke one from Mr. Rymer's shop-boy. This box was brought into the passage by the porter (M'Culloch), but there was nobody in the house when they went in. They took the box into the house, and waited at the back door till Burke came, who said, "You are worth little that have not put it into the box." Witness assisted to put the body into the box; the porter pressed it down, and observing some of the hair over the side of the box, put it down inside, saying, "It was a bad thing to have it hanging out." The box was roped, and the porter instructed to carry it to Surgeons'-square. Witness and Burke accompanied him, and met the women in the High-school-yards. Could not say whether Burke or the porter went in first. Witness accompanied them. The body was put into a cellar; and witness and Burke proceeded to Dr. Knox's at Newington, but did not go into his house. Mr. Paterson, who was to pay the money, took them into a public-house, where he got change, and paid the porter five shillings, Burke two pounds seven shillings six-pence, and witness two pounds seven shillings six-pence. Understood that five pounds more was to be paid on Monday. Saw the women both in going to and returning from Newington, but neither of them went into the public-house.

Cross-examined by Mr. Cockburn.—Witness pushed the woman over a stool, and she was so drunk she could not rise. Before that, she had gone to the door, and called, "Police." When Burke got on the old woman, she gave a shriek, which could be heard some short distance. At that time, did not hear any one call for the police. Burke and he were fighting before the woman shrieked. Broggan and the two women were in bed; he was sitting at the side of the bed, and Burke was at the fire. Thinks that it was ten minutes before Burke had murdered the old woman. Never attempted to prevent him; but remained in the house all the time; sat by, and looked at the transaction. Did not go next day to the police, and inform them of it;

but, when examined by the police, he denied all knowledge of it. Hare was removed in the custody of the police to the outer house.

Margaret Laird, wife of Hare, corroborated his evidence. Saw Burke get upon the old woman's breast, when M'Dougal and she ran out to the passage, and remained there some time. She did not cry out, for she was powerless. Thinks it was a quarter of an hour before she came back to the house. Did not see the old woman, nor make any inquiry, as she had a suspicion that she had been murdered. M'Dougal did not ask any question at the time Burke lay down upon the old woman. Witness thinks she was standing near the door. Burke had not lain many minutes on the old woman, when witness ran out. Had some suspicion of what Burke was about, as she had seen some trick of the same kind done. In the course of the afternoon, M'Dougal came, and said to witness there was a *shot* in the house. She did not say what she meant by a *shot*—but she said that her husband had fetched her from a shop—M'Dougal told her at the same time she used the term shot, that it was a woman. She did not say expressly they were to murder the woman, but witness understood that to be her meaning, as she had heard the term used in such a meaning before.

Mr. Alexander Black, surgeon to the police establishment, examined the dead body of a woman in the Police-office, on Sunday, the 2d of November. His opinion at the time was, that the woman had died a violent death by suffocation, though he could not be quite positive.

Professor Christison examined the body along with Dr. Newbigging on the 2d and 3d of November. Some of the appearances justified the suspicion of strangulation, but the mode of death, he concluded, had been by applying the pressure of the hand under the chin, throwing the head back, and preventing the access of air to the lungs. There were many contusions on the body, and no signs of disease; it was very probable, that the death was caused by violence.

The declarations emitted were then read. Burke described himself as a native of Ireland; that he had been ten years in Edinburgh; was a shoe maker; and lived with Elizabeth M'Dougal, but was not married to her. He accounted for the dead body being in his house, by saying it was brought there by a porter.

The lord advocate contended, that even independently of the evidence of the socii criminis altogether, the charge against the prisoner Burke had been fully established.

The Dean of Faculty spoke for Burke: he concluded at four o'clock, and Mr. Cockburn followed on behalf of M'Dougal. At six o'clock the lord justice clerk commenced his charge to the jury, which occupied two hours and a half.

The jury retired at half-past eight, and after having been enclosed for fifty minutes, returned a verdict finding William Burke *Guilty* of the charge, and Helen M'Dougal, the libel not proven.

The prisoner Burke was then sentenced to be executed on the 28th of January, and his body to be given to the surgeons for dissection.

CONFESSIONS OF BURKE IN THE JAIL.

Present Mr. George Tait, sheriff-substitute; Mr. Archibald Scott, procurator-fiscal; Mr. Richard J. Moxey, assistant-sheriff clerk.

Edinburgh, 3d January, 1829.

Compeared William Burke, at present under sentence of death in the jail of Edinburgh, states, that he never saw Hare till the Hallow-fair before last (November, 1827), when he and Helen M'Dougal met Hare's wife, with whom he was previously acquainted, in the street; they had a dram, and he mentioned he had an intention to go to the west country to endeavour to get employment as a cobler; but Hare's wife suggested that they had a small

room in their house which might suit him and M'Dougal, and that he might follow his trade of a cobler in Edinburgh—and he went to Hare's house, and continued to live there, and got employment as a cobler.

An old pensioner named Donald, lived in the house about Christmas, 1827; he was in bad health, and died a short time before his quarter's pension was due—he owed Hare four pounds; and a day or two after the pensioner's death, Hare proposed that his body should be sold to the doctors, and that the declarant should get a share of the price. Declarant said, it would be impossible to do it, because the man would be coming in with the coffin immediately; but after the body was put into the coffin, and the lid was nailed down, Hare started the lid with a chisel, and he and declarant took out the corpse and concealed it in the bed, and put tanner's bark from behind the house into the coffin, and covered it with a sheet, and nailed down the lid of the coffin, and the coffin was then carried away for interment. Hare did not appear to have been concerned in any thing of the kind before, and seemed to be at a loss how to get the body disposed of, and he and Hare went in the evening to the yard of the college, and saw a person like a student there, and the declarant asked him, if there were any of Dr. Monro's men about, because he did not know there was any other way of disposing of a dead body—nor did Hare. The young man asked what they wanted with Dr. Monro, and the declarant told him that he had a subject to dispose of, and the young man referred him to Dr. Knox, No. 10, Surgeons'-square, and they went there, and saw young gentlemen, whom he now knows to be Jones, Miller, and Ferguson, and told them that they had a subject to dispose of; but they did not ask how they had obtained it; and they told the declarant and Hare to come back when it was dark, and that they themselves would find a porter to carry it. Declarant and Hare went home, and put the body into a sack, and carried it to Surgeons'-square, and not knowing how to dispose of it, laid it down at the door of the cellar, and went up to the room, where the three young men saw them, and told them to bring up the body to the room, which they did, and they took the body out of the sack, and laid it on the dissecting table. That the shirt was on the body, but the young men asked no questions as to that, and the declarant and Hare, at their desire, took off the shirt, and got seven pounds ten shillings. Dr. Knox came in after the shirt was taken off, and looked at the body, and proposed they should get seven pounds ten shillings, and authorized Jones to settle with them; and he asked no questions as to how the body had been obtained. Hare got four pounds five shillings, and the declarant got three pounds five shillings. Jones, &c. said, that they would be glad to see them again, when they had any other body to dispose of.

Early last spring, 1828, a woman from Gilmerton came to Hare's house as a nightly lodger, Hare keeping seven beds for lodgers. That she was a stranger, and she and Hare became merry, and drank together; and next morning she was very ill in consequence of what she had got, and she sent for more drink, and she and Hare drank together, and she became very sick and vomited, and at that time she had not risen from bed, and Hare then said that they would try and smother her, in order to dispose of her body to the doctors. That she was lying on her back in the bed, and quite insensible from drink, and Hare clapped his hand on her mouth and nose, and the declarant laid himself across her body in order to prevent her making any disturbance, and she never stirred; and they took her out of bed and undressed her, and put her into a chest, and they mentioned to Dr. Knox's young men that they had another subject, and Mr. Miller sent a porter to meet them in the evening at the back of the Castle; and declarant and Hare carried the chest till they met the porter, and they accompanied the porter with the chest to Dr. Knox's class-room, and Dr. Knox came in when they were there; the body was cold and stiff. Dr. Knox approved of its being so fresh, but did not ask any questions.

The next was a man named Joseph, a miller, who had been lying badly in the house. That he got some drink from declarant and Hare, but was not tipsy; he was very ill, lying in bed, and could not speak sometimes, and there was a report on that account that there was fever in the house, which made Hare and his wife uneasy, lest it should keep away lodgers, and they (declarant and Hare) agreed that they should suffocate him for the same purpose, and the declarant got a small pillow and laid it across Joseph's mouth, and Hare lay across the body to keep down the arms and legs, and he was disposed of in the same manner to the same persons, and the body was carried by the porter who carried the last body.

In May, 1828, as he thinks, an old woman came to the house as a lodger: she was the worse for drink, and she got more drink of her own accord, and she became very drunk, and declarant suffocated her; and Hare was not in the house at the time; and she was disposed of in the same manner.

Soon afterwards an Englishman lodged there for some nights, and was ill of the jaundice: that he was in bed very unwell, and Hare and declarant got above him and held him down, and by holding his mouth, suffocated him, and disposed of him in the same manner.

Shortly afterwards an old woman named Haldane (but he knows nothing farther of her) lodged in the house, and she had got some drink at the time, and got more to intoxicate her, and he and Hare suffocated her, and disposed of her in the same manner.

Soon afterwards a cinder woman came to the house as a lodger, as he believes, and she got drink from Hare and the declarant, and became tipsy, and she was half asleep, and he and Hare suffocated her, and disposed of her in the same manner.

About midsummer, 1828, a woman with her son or grandson, about twelve years of age, and who seemed to be weak in his mind, came to the house as lodgers; the woman got a dram, and when in bed asleep, he and Hare suffocated her; and the boy was sitting at the fire in the kitchen, and he and Hare took hold of him, and carried him into the room and suffocated him. They were put into a herring barrel the same night, and carried to Dr. Knox's rooms.

That, soon afterwards, the declarant brought a woman to the house as a lodger, and after some days she got drunk, and was disposed of in the same manner. That declarant and Hare generally tried if lodgers would drink, and, if they would drink, they were disposed of in that manner.

The declarant then went for a few days to the house of Helen M'Dougal's father, and, when he returned, he learned from Hare, that he had disposed of a woman in the declarant's absence, in the same manner, in his own house; but the declarant does not know the woman's name, or any farther particulars of the case, or whether any other person was present or knew of it.

That about this time he went to live in Broggan's house, and a woman, named Margaret Haldane, daughter of the woman Haldane before mentioned, and whose sister is married to Clark, a tinsmith in the High-street, came into the house, but the declarant does not remember for what purpose; and she got drink, and was disposed of in the same manner. That Hare was not present, and neither Broggan nor his son knew the least thing about that or any other case of the same kind.

That, in April, 1828, he fell in with the girl Paterson and her companion in Constantine Burke's house, and they had breakfast together, and he sent for Hare, and he and Hare disposed of her in the same manner; and Mr. Fergusson and a tall lad, who seemed to have known the woman by sight, asked where they had got the body; and the declarant said, he had purchased it from an old woman at the back of the Canongate. The body was disposed of five or six hours after the girl was killed, and it was cold, but not very

stiff, but he does not recollect of any remarks being made about the body being warm.

One day in September or October, 1828, a washer-woman had been washing in the house for some time, and he and Hare suffocated her, and disposed of her in the same manner.

Soon afterwards, a woman, named M'Dougal, who was a distant relation of Helen M'Dougal's first husband, came to Broggan's house to see M'Dougal; and after she had been coming and going to the house for a few days, she got drunk, and was served in the same manner by the declarant and Hare.

That "Daft Jamie" was then disposed of in the manner mentioned in the indictment, except that Hare was concerned in it. That Hare was lying alongside of Jamie in the bed, and Hare suddenly turned on him, and put his hand on his mouth and nose; and Jamie, who had got drink, but was not drunk, made a terrible resistance, and he and Hare fell from the bed together, Hare still keeping hold of Jamie's mouth and nose; and as they lay on the floor together, declarant lay across Jamie, to prevent him from resisting, and they held him in that state till he was dead, and he was disposed of in the same manner: and Hare took a brass snuff-box and a spoon from Jamie's pocket, and kept the box to himself, and never gave it to the declarant—but he gave him the spoon.

And the last was the old woman Docherty, for whose murder he has been convicted. That she was not put to death in the manner deponed to by Hare on the trial. That, during the scuffle between him and Hare, in the course of which he was nearly strangled by Hare, Docherty had crept among the straw, and after the scuffle was over, they had some drink, and after that they both went forward to where the woman was lying sleeping. Hare went forward first, and seized her by the mouth and nose, as on former occasions; and at the same time the declarant lay across her, and she had no opportunity of making any noise; and before she was dead, one or other of them, he does not recollect which, took hold of her by the throat. That while he and Hare were struggling, which was a real scuffle, M'Dougal opened the door of the apartment, and went into the inner passage and knocked at the door, and called out police and murder, but soon came back; and at the same time Hare's wife called out, never to mind, because the declarant and Hare would not hurt one another. That whenever he and Hare rose and went towards the straw where Docherty was lying, M'Dougal and Hare's wife, who, he thinks, were lying in bed at the time, or, perhaps, were at the fire, immediately rose and left the house, but did not make any noise, so far as he heard; and he was surprised at their going out at that time, because he did not see how they could have any suspicion of what they (the declarant and Hare) intended doing. That he cannot say whether he and Hare would have killed Docherty or not, if the women had remained, because they were so determined to kill the woman, the drink being in their head; and he has no knowledge or suspicion of Docherty's body having been offered to any person besides Dr. Knox, and he does not suspect that Paterson would offer the body to any other person than Dr. Knox.

Declares, That suffocation was not suggested to them by any person as a mode of killing, but occurred to Hare on the first occasion before mentioned, and was continued afterwards because it was effectual, and showed no marks; and when they lay across the body at the same time, that was not suggested to them by any person, for they never spoke to any person on such a subject; and it was not done for the purpose of preventing the person from breathing, but was only done for the purpose of keeping down the arms and thighs, to prevent struggling.

Declares, That, with the exception of the body of Docherty, they never took persons by the throat, and they never leapt upon them; and declares that there were no marks of violence on any of the subjects, and they were

sufficiently cold to prevent any suspicion on the part of the doctors; and, at all events, they might be cold and stiff enough before the box was opened up, and he and Hare always told some story of their having purchased the subjects from some relation or other person who had the means of disposing of them, about different parts of the town, and the statements which they made were such as to prevent the doctors having any suspicions; and no suspicions were expressed by Dr. Knox, or any of his assistants, and no questions asked tending to show that they had suspicion.

Declares, That Helen M'Dougal and Hare's wife were no way concerned in any of the murders, and neither of them knew of any thing of the kind being intended. Even in the case of Docherty, and although these two women may latterly have had some suspicion in their own minds that the declarant and Hare were concerned in lifting dead bodies, he does not think they could have any suspicion that he and Hare were concerned in committing murders.

Declares, That none of the subjects which they had procured, as before-mentioned, were offered to any other person than Dr. Knox's assistants, and he and Hare had very little communication with Dr. Knox himself; and declares, that he has not the smallest suspicion of any other person in this, or in any other country, except Hare and himself, being concerned in killing persons, and offering their bodies for dissection; and he never knew or heard of such a thing having been done before.

Wm. Burke.
G. Tait.

Present, Mr. George Tait, sheriff-substitute; Mr. Archd. Scott, procurator-fiscal; Mr. Richard J. Moxey, assistant-sheriff-clerk; the Rev. Wm. Reid, Roman Catholic priest.

Edinburgh, 22d January, 1829.

Compeared, William Burke, at present under sentence of death in the jail of Edinburgh, and his declaration, of date the 3d current, being read over to him, he adheres thereto. Declares further, that he does not know the names and descriptions of any of the persons who were destroyed except as mentioned in his former declaration. Declares, that he never was concerned in any other act of the same kind, nor made any attempt or preparation to commit such, and all reports of a contrary tendency, some of which he has heard, are groundless. And he does not know of Hare being concerned in any such, except as mentioned in his former declaration; and he does not know of any persons being murdered for the purpose of dissection by any other persons than himself and Hare; and if any persons have disappeared anywhere in Scotland, England, or Ireland, he knows nothing whatever about it, and never heard of such a thing till he was apprehended. Declares, that he never had any instruments in his house except a common table-knife, or a knife used by him in his trade as a shoemaker, or a small pocket-knife, and he never used any of those instruments, or attempted to do so, on any of the persons who were destroyed. Declares, that neither he, nor Hare, so far as he knows, ever were concerned in supplying any subjects for dissection, except those before-mentioned; and, in particular, never did so by raising dead bodies from the grave. Declares, that they never allowed Dr. Knox, or any of his assistants, to know exactly where their houses were, but Paterson, Dr. Knox's porter or door-keeper, knew. And this he declares to be truth.

Wm. Burke.
G. Tait.

EXECUTION.

This morning, pursuant to his sentence, this monster was executed at Edinburgh. The crowd was great beyond all former precedent, and covered the street from the Castle-hill to the Exchange. Bank-street was also crowded,

as well as the large area at the end of the church, where any view could be obtained. Every situation, in short, that could command a view of the scaffold, was occupied. There were spectators even on the top of some of the highest houses. The windows at the back of the Writers' libraries, and particularly the windows in Libberton's Wynd, from which Burke could be seen as he was advancing to the scaffold, were crowded to excess. All the windows along the street were filled; and such was the general and ardent curiosity to obtain a sight of this criminal, that there were several well-dressed females in different houses in the Lawn-market. There were some spectators also on the top of the new north church.

Such was the anxiety to secure a place from which to witness the execution, that so high a price as a guinea was paid for one window, while some were disposed of by retail at the rate of two shillings six-pence for permission to have a look. Placards were displayed in the neighbourhood of the scaffold, of "Windows to let," even up to the sixth and seventh floors. Crowds of people continued to arrive, not only from all parts of the city, but from all the neighbouring towns; and, by eight o'clock, there were certainly not less than twenty thousand persons within view of the scaffold, among whom were an unusual proportion of females. During the night, Burke stated that he was happy that he had at last been arrested in his career of crime, and brought to justice. Though he had been a great offender, yet he rested on the atonement of the Saviour for salvation. When the irons were knocked off, he exclaimed, "Thank God these are off, and all will be off shortly." Shortly after eight o'clock, the procession set out for the place of execution. The magistrates, with a party of town officers, first ascended the scaffold; and they were followed by Burke, supported by the two Catholic clergymen. He was dressed in decent black clothes, and was perfectly firm and composed. The moment he appeared, the crowd set up an appalling shout, which continued for several minutes. The murderer and the Catholic clergymen then knelt down, and spent a few minutes in devotion, and the religious exercises were concluded by a prayer from the Rev. Mr. Marshall. During the time, a deep silence prevailed among the assemblage, but the devotions were succeeded by vehement cheering from every quarter, mingled with groans and hisses. When the cheers had subsided, the wretched man was assailed with every epithet of contempt and abhorrence. As soon as the executioner proceeded to his duty, the cries of "Burke him, Burke him,—give him no rope," and many other similar exclamations, were vociferated in voices loud with indignation. Burke, in the mean time, stood perfectly unmoved, and gazed around, until the cap was drawn over his face, and shut the world for ever from his view. The executioner having completed his preparations, and placed the signal in Burke's hand, the magistrates, ministers, and attendants left the scaffold. The crowd again set up another long and loud cheer, which was followed by cries for "Hare, Hare,—where is Hare?—hang Hare," and so on. Burke lifted his hands and ejaculated a prayer of a few sentences, then dropped the napkin, and instantly the drop fell. The struggle was neither long nor apparently severe; but, at every convulsive motion, a loud huzza arose from the multitude, which was several times repeated, even after the last agonies of humanity were past. During the time of the wretched man's suspension not a single indication of pity was observable among the vast crowd: on the contrary, every countenance wore the lively aspect of a gala-day, while puns and jokes on the occasion were freely bandied about, and produced bursts of laughter and merriment, which were not confined to the juvenile spectators alone. "*Burke* Hare too!" "Wash blood from the land!" "One cheer more!" and similar exclamations, were repeated in different directions, until the culprit was cut down, about nine o'clock, when one general and tremendous huzza closed the awful exhibition; and the multitude immediately afterwards began to disperse.

CHARLES MACKLIN,*

FOR THE MURDER OF THOMAS HALLAM, MAY 10, 1735.

Charles Macklin was indicted for the murder of Thomas Hallam, by thrusting a stick into his left eye, and thereby giving him one mortal wound, of which wound he languished till the next day, and then died.

Thomas Arne deposed.—I have the honour to be numberer of the boxes of Drury-lane play-house, under Mr. Fleetwood. On Saturday night I delivered my accounts in the property-office, and then, at eight at night, I came into the scene-room, where the players warm themselves, and sat down on a chair at the end of the fire: fronting the fire, there is a long screen, where five or six may sit. The play was almost done, and they were making preparation for the entertainment, when the prisoner came and sat down next to me, and high words arose between him and the deceased about a stock wig for a disguise in the entertainment; the prisoner had played in this wig the night before, and now the deceased had got it: "D—n you for a rogue," said the prisoner, "what business have you with my wig?"—"I am no more a rogue than yourself," said the deceased: "it is a stock wig, and I have as much right to it as you." Some of the players coming in, they desired the deceased to fetch the wig and give it to the prisoner, and he said to him, "here is your wig, I have got one that I like better:" the prisoner, sitting by me, took the wig, and began to comb it out, and all seemed to be very quiet for half a quarter of an hour; but the prisoner began to grumble again, and said to the deceased, "G–d d—n you for a blackguard scrub rascal, how durst you have the impudence to take this wig?" The deceased answered, "I am no more of a rascal than yourself;" upon which the prisoner started up out of his chair, and having a stick in his hand, he gave a full lunge at the deceased, and thrust the stick into his left eye; and pulling it back again, he looked pale, turned on his heel, and, in a passion, threw the stick in the fire; "G–d d—n it," said he, and, turning about again upon his heel, he sat down; the deceased clapt his hand to his eye, and said it was gone through his head; he was about to sink, when they set him in a chair; the prisoner came to him, and, leaning upon his left arm, put his hand to his eye; "Lord," cried the deceased, "it is out."—"No, said the prisoner, "I feel the ball roll under my hand." Young Mr. Cibber came in, and immediately sent for Mr. Coldham, the surgeon.

Prisoner.—Did I show any concern afterwards?

Arne.—I believe he was under the utmost surprise, by his turning about, and throwing the stick in the fire; and he shewed a further concern, when he felt of the eyeball.

Thomas Whitaker deposed.—I am a dresser in the house, under a comedy player: on the Friday night, the prisoner asked me to lend him a comedy wig to play Sancho, in the Fop's fortune; and the next night the deceased came and asked me for the same wig; I told him I had it not, and bid him go to the other dresser; as I was afterwards waiting in the hall for my money, the prisoner came in, and asked the deceased for the wig; the deceased answered that he should not have it; and the prisoner replied, "you are an impudent rascal, and ought to be caned for your impudence." Mr. Mills, who was acting Juba, came and said, "What is the matter with you? we cannot play for the noise you make." The prisoner answered, "This rascal has got a wig that belongs to me." Mr. Mills said to the deceased, "Hallam, do not be impertinent, but give him the wig." Hallam still refused; upon which the prisoner said, "G–d d—n you, such little rascals ought to be made an example of," and so turned out of the room. I being dressed in

* Author of Love a-la-mode, The Man of the World &c. &c.

shape, went up and undressed; Mr. Woodford bid me bring down a scimitar, which I did, but, when I came down I could not find him, and I then went into the scene-room; the deceased was standing still between the door and the settle; the prisoner was about three yards from him, and starting up, he made a sudden lunge (whether stepping or running I cannot say); the deceased clapped his hand to his eye, and made a reel, as if he was throwing himself into the settle; the prisoner seemed to be much concerned.

Prisoner.—I played Sancho the night before: and the wig I then used was proper for the new play, and absolutely necessary for my character; the whole force of the poet's wit depending on the lean meagre looks of one that wanted food; this wig, therefore, being so fit for my purpose, and hearing the deceased had got it, I said to him, "You have got the wig I played in last night, and it fits my part this night."—"I have as much right to it as you have," said he: I told him I desired it as a favour; he said I should not have it. "You are a scoundrel," said I, "to deny me, when I only ask that as a favour, which is my right."—"I am no more a scoundrel than yourself," said he, and so he went out, and I went to the prompter's door to see for Mr. Cibber; meanwhile the deceased went into the scene-room, and said, that I had used him like a pickpocket: the author persuaded him to let me have the wig, and the property-man brought him another wig: he threw the first wig at me; I asked him why he could not as well have done that before? He answered, "because you used me like a pickpocket." This provoked me, and rising up, I said, "D—n you for a puppy, get out." His left side was then towards me, but he turned about unluckily, and the stick went into his eye; "Good God," said I, "what have I done?" and threw the stick in the chimney. He sat down, and spoke to Mr. Arne's son. I begged them to take the deceased to the bagnio, but Mrs. Moore said, she had a room where he should be taken care of. I had then no thought that it would prove his end, but feared that his eye was in danger: but next morning I saw Mr. Turbut, who advised me to keep out of the way, or I should be sent to jail. I begged him to get the assistance of a physician, and gave him a guinea, which was all the money I had. From the beginning of the quarrel to the end, it was but ten minutes, and there was no intermission.

Robert Turbut.—I had played that night, and was in the scene-room when the deceased came in, and seemed flushed, and said, "Macklin has used me like a pickpocket; I had this wig of Mrs. Greenwood the dresser, and now he wants it; and I think it is as proper for my character as for his;" the prisoner then came in, and demanded it; upon which, in a merry way, it was put to the question which of them should have it, and it was agreed that the prisoner should. Mr. Kitchen came in, and said, "Here is another wig;" the deceased then tossed the former wig to the prisoner, who said to him, "Why could not you have done this before?" He answered, "Because you used me like a pickpocket."—"You lie," said the prisoner, and "you lie," said the deceased; "you are a scoundrel," said one, "and you are a scoundrel," said another: at last the prisoner, rising up, said, "You puppy, get out," and pushed at him; but, I believe, not with any particular aim.

Mr. Rich, Mr. Fleetwood, Mr. Quin, Mr. Ryan, Mr. Thompson, Mr. Mills, Mr. Lessley, Mr. Black, and Mr. Fern, appeared to the prisoner's character and deposed that he was a man of a quiet and peaceable disposition.

The jury found him *Guilty of manslaughter*.

MARY YOUNG, *alias* JENNY DIVER,

FOR PRIVATELY STEALING.—1740.

This extraordinary woman was a native of the north of Ireland, and, having lost her parents while in a state of infancy, she was taken into the family of an old lady, who educated her. Among her first acquaintance, was one of her countrywomen, named Anne Murphy, by whom she was invited to partake of a lodging in Long Acre. Here she endeavoured to obtain a livelihood by her needle; but not being able to procure sufficient employment, in a short time her situation became truly deplorable. Murphy intimated to her that she could introduce her to a mode of life that would prove exceedingly lucrative; adding, that the most profound secrecy was required. The other expressed an anxious desire of learning the means of extricating herself from the difficulties under which she laboured; and made a solemn declaration that she would never divulge what Murphy should communicate. In the evening, Murphy introduced her to a number of men and women assembled in a club, near St. Giles'. These wretched people gained their living by cutting off women's pockets, and stealing watches, &c., in the avenues of the theatres, and at other places of public resort; and, on the recommendation of Murphy, they admitted Mary a member of the society.

After her admission, they dispersed in order to pursue their illegal occupation; and the booty obtained that night consisted of eighty pounds in cash and a valuable gold watch. As Mary was not yet acquainted with the art of thieving, she was not admitted to an equal share of the night's produce; but it was agreed that she should have ten guineas. She now regularly applied two hours every day in qualifying herself for an expert thief, by attending to the instructions of experienced practitioners; and, in a short time, she was distinguished as the most ingenious and successful adventurer of the whole gang. In a few months she became so expert in her profession, as to acquire great consequence among her associates, who distinguished her by the appellation of Jenny Diver, on account of her remarkable dexterity.

On one occasion, Mary, accompanied by one of her female accomplices, joined the crowd at the entrance of a chapel in the Old Jewry, where a popular divine was to preach; and observing a gentleman with a diamond ring on his finger, she held out her hand, which he kindly received, in order to assist her, and at this juncture she contrived to get possession of the ring, without the knowledge of the owner; after which, she slipped behind her companion, and heard the gentleman say, that as there was no probability of gaining admittance, he would return. Upon his leaving the meeting, he missed his ring, and mentioned his loss to the persons who were near him, adding, that he suspected it to be stolen by a woman whom he had endeavoured to assist in the crowd; but, as the thief was unknown, she escaped. This robbery was considered as such an extraordinary proof of Mary's cleverness, that her associates determined to allow her an equal share of all their booties, even though she was not present when they were obtained.

A short time afterwards, she procured a pair of false hands and arms to be made, and concealing her real ones under her clothes, and putting something beneath her stays to make herself appear as if in a state of pregnancy, she repaired on a Sunday evening to a chapel, in a sedan chair, one of the gang going before, to procure a seat among the genteel part of the congregation, and another attending in the character of a footman. Being seated between two elderly ladies, each of whom had a gold watch by her side, she conducted herself with seeming devotion; but, when the service was nearly concluded, she seized the opportunity while the ladies were standing up, of

stealing their watches, which she delivered to an accomplice in an adjoining pew.

She practised a variety of felonies of a similar nature in different parts of the metropolis and its adjacencies; till, by the minute accounts in the newspapers, it was deemed impolitic to repeat them; and, therefore, the gang resolved to go to Bristol, in search of adventures, during the fair held in that city every summer. Here Mary Young and Anne Murphy assumed the characters of merchants' wives, and Mary's favourite retained the character of footman. They took lodgings at different inns; and agreed, if any of them should be apprehended, the others should endeavour to procure their release, by representing them as people of character.

On the return of Mary to town, she hired a real footman, and her favourite, who had long acted in that character, assumed the appearance of a gentleman. She hired lodgings in the neighbourhood of Covent-garden, that she might more conveniently attend the theatres. This infamous association was now become so notorious a pest to society, that they judged it prudent to leave the metropolis, where they were apprehensive they could not long remain concealed from justice. They practised a variety of stratagems, with great success, in different parts of the country; but, upon revisiting London, Mary was committed to Newgate, on a charge of having picked a gentleman's pocket; for which she was sentenced to transportation.

She remained in the above prison near four months; during which time she employed a considerable sum in the purchase of stolen goods. When she went on board the transport vessel, she shipped a quantity of goods, nearly sufficient to load a wagon. On her arrival in Virginia, she disposed of her goods, and for some time lived in good style.

She soon found that America was a country where she could expect but little emolument from the practices she had so successfully followed in England; and, therefore, she employed every art that she was mistress of to ingratiate herself into the esteem of a young gentleman, who was preparing to embark on board a vessel, bound for the port of London; he became much enamoured of her, and brought her to England. While the ship lay at Gravesend, she robbed him of all the property she could get into her possession, and pretending an indisposition, intimated a desire of going on shore, in which her admirer acquiesced; but she was no sooner on land, than she made a precipitate retreat.

She next travelled through several parts of the country, and by her usual practices, obtained many considerable sums. At length she returned to London, but was not able to find her former accomplices. She now frequented the royal exchange, the theatres, London-bridge, and other places of public resort, and committed innumerable depredations on the public. Being detected in picking a gentleman's pocket upon London-bridge, she was taken before a magistrate, to whom she declared that her name was Jane Webb; and, by that appellation, she was committed to Newgate.

On her trial, a gentleman who had detected her in the act of picking the prosecutor's pocket, deposed, that a person had applied to him, offering £50, on condition that he should not appear in support of the prosecution; and a lady swore that, on the day she committed the offence for which she stood indicted, she saw her pick the pockets of more than twenty different people. The record of her former conviction was not produced in court; and she was therefore arraigned for privately stealing, and on the clearest evidence, the jury pronounced her *Guilty*. The property being valued at less than one shilling, she was sentenced to transportation. A twelvemonth had not elapsed before she returned from transportation a second time; and on her arrival in London, she renewed her former practices.

A lady going from Sherborne-lane to Walbrook, was accosted by a man,

who took her by the hand, seemingly as if to assist her in crossing some planks that were placed over the channel for the convenience of passengers; but he squeezed her fingers with so much force, as to give her great pain; and, in the mean time, Mary picked her pocket of thirteen shillings and a penny. The lady, conscious of being robbed, seized the thief by the gown, and she was immediately conducted to the compter. She was examined the next day by the lord mayor, who committed her to Newgate in order for trial.

At the ensuing sessions at the Old Bailey, she was tried on an indictment for privately stealing, and the jury brought in the verdict *Guilty;* in consequence of which, she received sentence of *death.*

On the following morning, she appeared to be composed; but being brought into the press-yard, where the executioner approached to put the halter about her, her fortitude failed; but in a short time her spirits were again tolerably composed. She was conveyed to Tyburn in a mourning coach, attended by a clergyman. At the place of execution, she employed a considerable time in fervent prayer. She suffered on the 18th March, 1740; and her remains were, by her particular desire, interred in St. Pancras churchyard.

GEORGE HENDERSON AND MARGARET NISBET,

FOR FORGING A BILL UPON THE DUTCHESS OF GORDON.—1726.

In the beginning of May, 1726, it was discovered that one Petrie, a town-officer in Leith, held the dutchess of Gordon's bill for £58, which had been delivered to him, blank endorsed, by Mrs. Macleod, as a security for £6, for which sum her husband had been laid in prison. The bill was drawn by George Henderson, accepted by her grace, endorsed by Henderson the drawer, to Mrs. Macleod, and blank endorsed by Mrs. Macleod; and in virtue of this blank endorsation Petrie the town-officer held it. The holder of the bill was apprehended and brought before the magistrates of Edinburgh; in a few days after Mrs. Macleod and Mr. Henderson was also brought before them. It was manifest that the dutchess of Gordon's acceptance was a forgery, but the point in dispute was, whether this forgery was contrived by Mr. Henderson, the drawer and endorser, or Mrs. Macleod, the endorsee.

Upon the 5th of May, Petrie was brought before the magistrates, and told the manner in which he came by the bill. Henderson was at the same time brought before them, who denied all knowledge concerning it. Mrs. Macleod was apprehended on the 7th, and examined, and she and Henderson being confronted with each other, the former judicially declared, that the bill and other deeds challenged were written by Henderson, who denied all knowledge concerning them. Upon which, Mr. Henderson and Mrs. Macleod were committed close prisoners.

John Gibson, wright in the Canongate of Edinburgh, deposed that he knew Mr. Henderson then at the bar, having seen him several times, and been once in company with him. Deponed that, on the 3d of May last, about nine at night, as he was going down the Canongate, he met Mr. Henderson and Mrs. Macleod, who went along with him to the deponent's house; he there saw Mr. Henderson sign the obligation to Mrs. Macleod now exhibited; the deponent read it over, and signed as witness to Mr. Henderson's subscription, and the deponent's two daughters and Archibald Dempster were present. Part of this deed was written before the deponent saw it, but the last part of it, viz. from the following words, "before these witnesses," downwards was written with Mr. Henderson's own hand, in the deponent's presence. They staid in his house almost an hour; and, during this time, Mr. Henderson repeatedly

desired of Mrs. Macleod "that she should delay and keep herself quiet till Saturday, and she should have her money, which she refused to do unless he signed the obligation." Mr. Henderson, Mrs. Macleod, and the deponent then went down the Canongate together. When they were before deacon Lauchlan's house, Mrs. Macleod told Mr. Henderson she had intimated the bill to the dutchess' gentleman; whereupon he, Henderson, clapped upon his breast, and said, "O, good God, that is all wrong, why have you done so?" and upon this he immediately left them. Deposed, that Mr. Henderson had on dark coloured clothes and a black wig, such as he now wore. And being interrogated if he knew one David Household, alias Cameron? deposed he knew no such person.

Archibald Dempster, servant to James Aitkin, wright, deposed that, on the 3d of May last, after nine at night, he was sent for by John Gibson, the preceding witness, to his house. He found there, Mr. Henderson, Mrs. Macleod, Gibson, his wife, and two daughters. Henderson was then writing a paper, which the deponent saw him subscribe; Gibson signed as witness to the deed, and desired the deponent to do the same. He hesitated, lest it might be the cause of his afterwards being taken from his work, or of otherwise being brought into trouble. But Mr. Gibson said, it was no more than an obligation which Mr. Henderson was giving Mrs. Macleod for some money, and that he would pay against Saturday, and the deponent would not get into trouble about it; upon which he signed as witness, and then went immediately to his master's house. Being interrogated, deposed, that he never saw Mr. Henderson before that night, nor since, except once about three weeks after, when he, Mr. Henderson, was brought before the magistrates of Edinburgh. He thought that Mr. Henderson, then at their lordship's bar, was the same person whom he saw at Mr. Gibson's, and afterwards before the magistrates.

Catherine Gray, servant to Alexander Hope, tailor, in Canongate, deposed, that she had frequent occasion of seeing and knowing George Henderson at the bar, and, particularly, on the 3d of May last, on which the deacons of the corporations of the Canongate were chosen: she saw the said George Henderson, the prisoner, about nine o'clock at night, coming up the Canongate in company with Mrs. Macleod, the other prisoner; and, a little above the Canongate-cross, she saw them meet with John Gibson; and the deponent, having asked Mrs. Macleod if she had got payment of her money due to her by Mr. Henderson, she said Mrs. Macleod answered, that she was just going to get security for it. Being interrogated for Mr. Henderson, she deposed, that she did not know, and, to her knowledge, never saw the person named David Household.

William Petrie, town officer in Leith, deposed that, on the 5th of February last, Mrs. Macleod delivered a bill to him for £58, which was drawn by Mr. Henderson, and accepted by the dutchess of Gordon, endorsed by Mr. Henderson to Mrs. Macleod, and blank endorsed by her. She gave this bill to deponent in security for £6 1*s.* which he advanced to her in order to relieve her husband, Mr. Macleod, out of prison. Deposed, he knew nothing as to the verity of the subscriptions, farther than Mrs. Macleod said it was a true bill. To the best of his remembrance, she said the cause of her getting that bill was tea and other goods she had furnished Mr. Henderson. Deposed that, about three years ago, Mrs. Macleod delivered to him, in security of a debt she owed him, a bill for £38 or £40, drawn in the same manner by George Henderson, and accepted by the dutchess of Gordon, and that Mrs. Macleod paid him punctually the sum she had borrowed upon the pledge of this bill, and took up the same; and she made use of this as an argument for the deponent's advancing her the £6 upon the bill produced in process. The deponent did not demand payment of the bill from the dutchess of Gordon, for he was prevented from doing so during the whole month of April, by Mrs. Macleod's telling him that the dutchess was then occupied with her devotions,

and that her gentleman, Mr. Gordon, was in the north, upon whose return the bill would be paid. She added, that she had been to wait upon her grace, had been kindly entreated, and had got a glass of some liquor out of the dutchess's hand. At last, the deponent became suspicious about the verity of the bill, and he told Mrs. Macleod, that, unless she got a letter from Mr. Henderson, declaring the verity of the bill, he would protest it; upon which she brought him the letter from Mr. Henderson now produced in process, but the deponent desired her to get an obligation from Mr. Henderson for the amount, signed before witnesses; she accordingly called on him, and showed him the obligation now produced in process. This he thought happened a day or two before the deponent was apprehended by order of the magistrates, which, to the best of his recollection, was upon the 4th day of May last. It was about ten o'clock at night when she called and showed him the obligation.

Alexander Nicolson, tailor in Edinburgh, being specially questioned, whether Mrs. Macleod at any time promised him any thing to be a witness in this cause, deposed that, about eight days after he was examined before the magistrates, the deponent having occasion to be in the tolbooth of Edinburgh, Mrs. Macleod whispered to him, that it should be better than £4 sterling to him, if he would depose that he had carried a message from Mrs. Macleod to Mr. Henderson to come to her; that he came accordingly, and the deponent saw him deliver to Mrs. Macleod an accepted bill by the dutchess of Gordon; but the deponent answered, his conscience would not allow him to declare any such thing. Deposed, that he afterwards got a letter from Mrs. Macleod, threatening him that, in case he should declare any thing contrary to what he said before the magistrates, the king's advocate would put him in prison: and that he showed the said letter to several, and particularly to Mr. Henderson's agent, Mr. Donaldson, and that the deponent had since lost the said letter out of his pocket. That in February last, when he was working in Mrs. Macleod's house, he heard her railing against a maid-servant for want of some money, and that a man came into the room whom the deponent did not know, nor remember; and that, when he was gone, Mrs. Macleod came to him, and said she had got a bill from him, and said, it would be good money to her. Mr. Henderson at the bar, being pointed out to the deponent, and asked if it was the man that was in Mrs. Macleod's house the time deposed? he said he had not seen the said man now pointed out to him in Mrs. Macleod's house, either that or any other time. He thought the man who came into Mrs. Macleod's had on a dark-coloured wig.

Captain Neil Macleod, deposed, that he had a servant, one David Household, a lad about seventeen years of age, who left his service at Michaelmas last, and whom he had frequently seen write. The letter from Henderson to Petrie, and the obligation by Henderson to Mrs. Macleod being shown to him, he deposed, that he could not say any thing to the letter, but, as to the other obligation, he said that, to the best of his knowledge, it was the handwriting of the said David Household. He deposed, that Household was not of a slender make, that he wore his own black hair, and was about the head lower than Mr. Henderson; but he had seen him since wearing a light-coloured wig.

Patrick Innes, writer in Edinburgh, deposed, that Mrs. Macleod having shown the deponent the obligation subscribed by Mr. Henderson, and produced in process, told him, that the motive of Mr. Henderson endorsing the dutchess of Gordon's bill to her was, that he might conceal an unlawful correspondence which he kept with one Helen Moody, a servant of hers, and carry the said Helen out of the country. Mrs. Macleod told the deponent this in the house of John Gibson, on the 4th or 5th of May. Being interrogated if he knew that Mrs. Macleod kept out of the way on account of this bill, he deposed, that Mrs. Macleod absconded for three days, and told the deponent, that the reason of her doing so was, that Petrie had a warrant to apprehend her, and that she expected payment before eight o'clock on Satur

day night, from Mr. Henderson, and that then she would give them all the tail of a long tow.* The deponent went with Mrs. Macleod to one doctor Smith, who was well acquainted with the dutchess of Gordon, and requested him to intercede with her grace, that she would pass from any ground she had for challenging the bill; but this the doctor positively refused, upon which Mrs. Macleod said she was undone.

Mary M'Aulay, widow of Alexander M'Lellan, barber in Leith, deposed that, some few days after Mrs. Macleod was made prisoner, the deponent saw in her house one David Household, who told her that, a few days before Mrs. Macleod was apprehended, he, at her desire, put on a coat of her husband's, and went with her to the Canongate, and in some house there, he assumed the name of Henderson, and, under that name, subscribed a paper, in presence of two witnesses, one of them a married man, and the other a young lad; and he said it was on account of this paper that Mrs. Macleod was put in prison. He added, that the reason she gave for his putting on her husband's coat was, that he might appear like Henderson. Household expressed his sorrow for what he had done, said he was not aware of his hazard, but now he was in danger of his life, and was resolved to fly the country; that he was afraid to cross at Leith, lest he should be apprehended, and would cross at Queensferry. And the deponent believed that he fled accordingly.

The trial had proceeded thus far, neither party being able to produce more witnesses to support their mutual recrimination and defence, when the lord advocate represented to the court, that, as the evidence given must have established with their lordships a conviction of Mr. Henderson's guilt, the duty of his office required it of him, to ask their lordships to pronounce a decree, finding the bill drawn upon the dutchess of Gordon to be forged by the prisoner Henderson, and therefore remitting him to the court of justiciary, that he might suffer a capital punishment.

The counsel for Mr. Henderson urged in his defence, that, notwithstanding the direct testimony which was given by several witnesses, of his having granted the obligation relative to the forged bill, yet, having visited him in prison, and repeatedly examined him in private, in the most solemn manner, the simplicity, uniformity, and steadiness of his answers to the counsel's interrogatories, gave the latter, if not a perfect conviction, at least a strong belief, that Henderson was truly innocent. The counsel, therefore, requested of their lordships, that they would not be hasty to embrace, nor resolute to conclude, a decided opinion of Henderson's guilt; for that even procrastination was not a fault, when the life of a man was at stake. And he entreated their lordships to spare his feelings of the pain it would give them, to see a sentence pronounced on almost the last day of a session, which was to be the foundation of a capital punishment being adjudged to a man, of whose innocence he still entertained a strong persuasion. The solemn and animated address of the counsel made a forcible impression upon the court, and their lordships delayed the cause till the next session.

During the vacation, a singular coincidence of circumstances occurred, which was the means of vindicating Henderson's innocence, and of detecting a profound scheme of fraud, not less ingeniously contrived, than dexterously executed.

The lord advocate, when going north to his house at Culloden, paid a visit to Mr. Rose, of Kilravock. Mr. Rose showed his lordship a house he was building; and, happening to miss one of the carpenters whom he thought an expert workman, he asked the overseer what was become of him? the overseer taking Mr. Rose aside, bid him take no further notice of this, for the young man, upon hearing that the lord advocate was to be at Kilravock, declared it was high time for him to leave the country; and that he would immediately go to Aberdeen, and take ship for London. Mr. Rose communi-

* The swing of a rope.

cated this to his lordship, who asked the overseer the carpenter's name, and if he knew of any crime that the carpenter had committed? The overseer answered, that the man's name was David Household, and he suspected the crime was being accessory to some forgery. The lord advocate immediately despatched a messenger to Aberdeen, who apprehended Household, and carried him prisoner to Edinburgh.

Upon the commencement of the winter session, Household, being brought before their lordships, and examined, deposed that, in the beginning of the year, he, at the desire of Mrs. Macleod, wrote the bill produced in process, which she dictated to him, and he, in particular, wrote the name of George Henderson, both as drawer and endorser; but the word Gordon he did not write. At another time Mrs. Macleod carried him to a gardener's house without the Watergate, at the foot of the Canongate; but, before taking him there, she put on him a coat belonging to her husband, and a black knotted perriwig, and told him, that she was to bring him into the company of two honest men, before whom he must personate George Henderson. The deponent did as she desired, and, in the gardener's house at the Watergate, she dictated to him a part of the obligation now produced. She then took him to a wright's house in the Canongate, on the south side of the street, and there, in presence of the wright, and of a boy called Dempster, Mrs. Macleod dictated, and the deponent wrote, the remainder of the obligation, and subscribed it George Henderson, in presence of the wright, and of Dempster, who subscribed as witnesses.

The letter produced in process from George Henderson to William Petrie, being likewise shown to the deponent, he deposed, that he wrote it also at the desire of Mrs. Macleod, who dictated the same to him, and this happened before he wrote the obligation above mentioned. Deposed, that after Mrs. Macleod was put in prison, a highlandman came to him, and said, that he was sent by Mr. Macleod, Mrs. Macleod's husband, to persuade him to abscond on account of the papers he had written: this he thought unnecessary, as he wrote them at the desire of another, and was altogether ignorant of the import of the said writings; but, upon advising with some friends, he was convinced of his danger, and he absconded.

John Winchester, clerk to the comptroller of the customs at Leith, deposed, that he was intimately acquainted with David Household; that some time in May last, the deponent went to see Household, who was then working aboard captain Marsham's ship, which was lying in Leith harbour; but was told that Household was not to be found. He called a second time, and the mate of the ship brought Household to him. The deponent asked, what was the matter with him? He answered that he was obliged to hide himself, for Mrs. Macleod had induced him one day to go to a house in the Canongate with her, and there to write out a bill for her for about £50 or £60 in presence of two witnesses, but the deponent did not remember what he said about subscribing the bill. Deposed, that he said to Household, he would be hanged for so doing; to which Household answered, he was resolved to fly; and added, that he had received a message from Mrs. Macleod's husband to abscond. The deponent asked him, if it was on account of this bill that Mrs. Macleod was put in prison? to which he answered, that it was the very same. The bill, letter, and obligation in process, being shown to the deponent, he deposed, that he was well acquainted with Household's handwriting, and he believed the said deeds to be written by him.

Archibald Dempster, a preceding witness, being re-examined, and his former deposition read over to him, deposed, that nobody instructed him as to what he was to say in that deposition, nor promised him any reward on that account. Being confronted with Henderson at the bar, and with David Household, and being desired to look narrowly upon the said David, and upon George Henderson at the bar, in order to declare upon oath, which of the said two was the person who wrote and subscribed the obligement in the

house of John Gibson, mentioned by the deponent in his former oath, he said, that he did believe that the said person was David Household, and not George Henderson.

The second part of this plot being performed, and the "plot detected," it remained now but for public justice to bring the matter to a catastrophe. Upon the 8th of December, the lord advocate represented to the court, that it was manifest that the dutchess of Gordon's bill was a forgery; that it was evident from the proof that Henderson was innocent of the forgery, who, therefore, ought to be acquitted; and that Mrs. Macleod was guilty of the same, as well as of counterfeiting the letter and obligation produced in process. This, his lordship said, was established by Household, who, at the desire and by the contrivance of Mrs. Macleod, actually forged the deeds; by Dempster, who, in his second deposition, ingenuously and satisfactorily accounted for the mistake into which he was led in his first, by the artful contrivance of Mrs. Macleod; by comparing the deeds produced with the handwriting of Household, taken down in their presence; and by the evidence which Henderson led of an alibi. He added, that she had formed a malicious intention to hang her neighbour, and it was but just she should fall into her own snare. Upon the whole, his lordship observed, that by her artful and horrid contrivance, Mrs. Macleod had wellnigh made "an innocent man suffer death. That this contrivance was, by the good providence of God, discovered: and concluded, that, therefore, the said Mrs. Macleod was guilty of forgery, and ought to suffer the pains of death." The solicitor-general added, "that there was such a horrid design, and so artfully laid, that, at first, he firmly believed Henderson guilty; nay, and could appeal to all, if Household had not been apprehended, they had not condemned Henderson."

The court found that Mrs. Macleod was GUILTY of the said forgeries; and they reduced the deeds, remitted Mrs. Macleod to the court of justiciary, acquitted Mr. Henderson, and dismissed him from the bar.

Mrs. Macleod was then served with a criminal indictment at the instance of his majesty's advocate, setting forth, that the crime of forgery, or the using of forged deeds, was punishable with death and confiscation of moveables, and other pains of law; that, nevertheless, Mrs. Macleod had been guilty of all, or one, or other, of these crimes, in so far as she had forged a bill upon the dutchess of Gordon, &c. &c. That the court of session had pronounced a sentence, declaring the bill, &c. to be forgeries, and that the prisoner was guilty of the same, and therefore remitting her to the court of justiciary; and that the extracted, i. e. authenticated decree of the court of sessions was lodged with the clerk of the court of justiciary. All which, or any part thereof, being found proven against her, she ought to be punished with the pains of death.

The prisoner and the public prosecutor were heard by counsel. It was objected for her, that forgery, by the law of Scotland, did not infer a capital punishment: that she was not accused of having actually committed the forgery, but only of being *art and part:* that she had not used the bill with an intent to defraud, but merely as a fund of credit for a small sum of money, which she meant honestly to repay; and that the decree of the court of session was neither to be held as determining the relevancy of the indictment, nor as *probatia probata*, or evidence not to be controverted of the prisoner's guilt. Informations for both parties were also lodged by order of the court. But, as the defences stated for the prisoner were overruled, and as these general points of law, and of form, are now established by subsequent practice, it is needless to state the arguments which they contained.

The decree being read, the court ordered the assize instantly to inclose: the jury returned a verdict, unanimously finding the indictment proved, and the prisoner guilty, art and part, of the crimes libelled. The court adjudged the prisoner to be hanged on the 8th of March.

She went to the place of execution dressed in a black robe and petticoat, with a large hoop, a white fan in her hand, and a white sarsnet hood on her head, according to the fashion of the times. When she came upon the scaffold, she put off the ornamental parts of her dress, pinned a handkerchief over the breast, and put the fatal cord about her neck with her own hands. She persisted to the last moment in the denial of her guilt, and died with great intrepidity.

JOHN CHISLIE, OF DALRY,

FOR THE MURDER OF THE RIGHT HON. SIR GEORGE LOCKHART, OF CARNWATH, LORD PRESIDENT OF THE COURT OF SESSION, AND MEMBER OF HIS MAJESTY'S PRIVY COUNCIL.—1ST OF APRIL, 1689.

The prisoner was brought to trial before sir Magnus Prince, lord provost of Edinburgh, as high sheriff within the city, and James Graham, John Charteris, Thomas Young, and William Paton, baillies, the murder having been committed within the city.

The prisoner was brought before the lord provost, on the 1st of April, 1689, to be examined concerning the murder of sir George Lockhart, committed on the day preceding. Sir John Lockhart, of Castlehill, brother, and Cromwell Lockhart, of Lee, nephew, of the deceased, appeared in court; and, in their own name, and in that of the children of the deceased, gave an act of the meeting of estates of parliament, passed that day, of the following purport: that the estates having considered the supplication of the friends of the deceased sir George Lockhart, for granting warrant to the magistrates of Edinburgh, to torture John Chislie, of Dalry, perpetrator of the murder, and William Calderwood, writer in Edinburgh, an accomplice; therefore, *in respect of the notoriety of the murder*, and of the extraordinary circumstances attending it, the estates appoint and authorize the provost, and two of the baillies of Edinburgh, and likewise the earl of Errol, lord high constable, and his deputies, not only to judge of the murder, but to proceed to torture* Chislie, to discover if he had any accomplices in the crime: and they appointed two of each bench,† viz. the earls of Glencairn and Eglinton; sir Patrick Ogilvie, of Boyne; sir Archibald Murray, of Blackbarony; sir John Dalrymple, younger, of Stair; and Mr. William Hamilton, advocate, assessors to these judges. The estates at the same time declare, that, this extraordinary case shall be no precedent to warrant torture in time coming, nor argument to ratify it as to the time past.

The lord provost then entered a protest, that this act of the estates of parliament should not infringe the ancient liberties of the city; and Mr. David Drummond, advocate, one of the earl of Errol's deputies, protested, that the lord high constable's absence should not affect his right to judge in the like cases, the murder having been committed during the meeting of the estates. Being desired to concur with the magistrates in sitting on this trial, he refused to sit, unless the earl of Errol, or his deputies, were sole judges.

The prisoner was then put to the torture, and declared that he was not advised to the assassination of sir George Lockhart by any person whatever:

* By the act and declaration which the estates of parliament passed, just ten days after this trial, declaring king James to have *forfaulted* the crown, by illegal assumption and exercise of power, they declared, "That the use of torture, without evidence, and in ordinary crimes, is contrary to law." Act of Estates, 11th April, 1684.

† The Scottish parliament composed but *one house*. It consisted, after the revolution, of three classes, the temporal peers, the barons, i. e. knights of the shire, and the burgesses or representatives of the royal boroughs.

that when at London, he told James Stewart, advocate, that if he got no satisfaction from the president, he would assassinate him; and told the same to a person there of the name of Callender, and to Mr. William Chislie, his uncle. He confessed that he charged his pistol on Sunday morning, and went to the new kirk, and, having seen the president coming from the church, he went to the close where the president lodged, followed him, and, when just behind his back, shot him: that he was satisfied when he heard of the president's being dead; and, on hearing it, he said, "*he was not used to do things by halves.*" He also confessed, that, when at London, he walked up and down Pall-mall with a pistol beneath his coat, lying in wait for the president.

The indictment against the prisoner was raised at the instance of John Gibson, procurator-fiscal of the city of Edinburgh; of sir John Lockhart, of Castlehill; and Cromwell Lockhart, of Lee. It set forth, that assassination, murder, and manslaughter were contrary to the laws of God, nature, nations, and the laws and acts of parliament of this kingdom; that, nevertheless, the prisoner had, of forethought felony, without the least provocation, murdered sir George Lockhart in the manner already mentioned: that the prisoner was caught *red-hand*,* by a multitude of witnesses, before whom he boasted of what he had done, as if it had been some grand exploit, by all which he was guilty of murder, or at least was *art and part* accessary to the same; for which he ought to be punished with death, and his moveables confiscated.

The jury consisted of ten landed gentlemen, and five merchants of Edinburgh.

The prisoner judicially confessed the crime libelled, and declared that he committed the murder, because he thought the deceased had given an unjust sentence against him. Being asked, "if it was not a sentence pronounced in favour of his wife and children for their aliment? he declared he would not answer to that point, nor give any account thereof."

Witnesses were then adduced, who deposed as follows:

James Stewart, advocate, deposed, that in the month of September or October preceding, the prisoner discoursing with him concerning the injustice done to the prisoner, in a decreet-arbitral, pronounced by sir George Lockhart and lord Kemney, in favour of his wife and children, for an aliment, said, he was resolved to go to Scotland before Candlemas, and kill the president; to which the witness answered, it was the suggestion of the devil, and the very imagination of it a sin before God. To this the prisoner replied, "let God and me alone; we have many things to reckon between us, and we will reckon this too." The witness told this to many, and understood that the president was informed of the prisoner's menaces, but despised them.

Mr. William Chislie, writer to the signet, deposed, that he had not seen the prisoner since April, 1688, who then expressed his resentment against sir George Lochkart; threatening to assassinate him for having decreed an aliment of 1700 merks† yearly to the prisoner's wife and ten children. The witness told the president of it, but he despised the threat.

Mr. Daniel Lockhart, advocate, and Mr. Alexander Walker, student of divinity, saw the prisoner shoot the deceased: they seized him; and the latter of these witnesses assisted in carrying him to the guard. When seized, the prisoner said, "he had done the deed, and would not fly; and that was to learn the president to do justice."

Sir David Hay, doctor of medicine, was going to visit the president's lady. As he entered the close,‡ he saw the president stagger and fall to the ground. He bled at the mouth; was carried into his house, laid upon

* *Red-hand* is a term in the Scottish law, signifying a criminal's being caught in the fact. *Art and part* is also a term in our law, denoting that the person to whom it is applied, is aiding and abetting in the case. *Art and part* is a translation of *ope et consilio*.

† About £93 sterling.

‡ It was the close on the south side of the Lawnmarket, now called the *Bank Close*, from the bank of Scotland being there.

some chairs, and immediately expired. He saw John Ballie, surgeon, probe the wound. The ball went in at the back, and out at the right breast.

The jury all in one voice, by the mouth of sir John Foulis, of Ravelstoun, their chancellor (i. e. foreman), found by the prisoner's judicial confession, that he was guilty of the murder of sir George Lockhart, &c.; and by the deposition of witnesses, that he was guilty of "*murder out of forethought felony.*" The verdict was subscribed by the whole jury.

The lord provost and baillies of Edinburgh sentenced the prisoner as follows:—

That he be carried on a hurdle from the tolbooth of Edinburgh, to the market-cross, on Wednesday, the third of April, inst.; and there between the hours of two and four of the afternoon, to have his right hand cut off alive, and then to be hanged upon a gibbet, with the pistol about his neck, with which he committed the murder. His body to be hung in chains between Leith and Edinburgh; his right hand fixed on the West Port, and his moveable goods to be confiscated.

WILLIAM HENRY, DUKE OF CUMBERLAND,

FOR ADULTERY WITH LADY GROSVENOR, MARCH, 1770.

Although we have forborne to introduce trials of this nature, yet as the parties were so distinguished, and the affair has never ceased to create a great public interest, this work would be incomplete without the present article. We have, nevertheless, forborne to introduce any subject which might offend any sense of decency.

The duke of Cumberland was the youngest surviving brother of George III. and at the time of this intrigue was in his twenty-fourth year; lady Grosvenor was about the same age, and had been married about five years to Richard, lord Grosvenor, and in the interim had had two sons, one of whom was subsequently the earl Grosvenor. She was a lady of pre-eminent beauty, daughter of Henry Vernon, esq., and his lordship had fallen in love with her at an accidental meeting in Kensington gardens.

Numerous witnesses were examined, and the first was lady D'Onhoff, who proved the recent meetings of the duke and her ladyship, and determined the following letters, which were adduced in evidence, to be in the handwriting of the duke of Cumberland.

"*My ever dearest Love,*—How sorry I am that I am deprived the pleasure of seeing this evening but especially as you are in pain God grant it over upon my knees I beg it although it may go off for a few days it must return, and then you will be easy, my only joy will be happy; how shall I thank for your very kind note, your tender manner of expressing yourself, calling me your dear friend, and at this time that you should recollect me. I wish I dare lye all the while by your bed, and nurse you—for you will have nobody near you that loved you as I do; thou dearest angel of my soul! O, that I could but bear your pain for you I should be happy, what grieves me most that they who ought to feel don't know inestimable prize the treasure they have in you—thank God if it should happen now, Mr. Croper is out of town, and you may be quiet for a few days,—I shall go out of town to-night, but shall stay just for an answer, pray, if you can just write me word how you find yourself, I shall be in town by eight to-morrow evening in hopes of hearing again, I am sure my angel is not in greater pain than what my heart feels for my adorable angel—I sent this by D—— servant, she

is gone to Ranelagh, do if you write, direct it to her, the boy has my orders, and will bring it to me—Adieu, God bless you, and I hope before morning your dear little one."

Directed to lady Grovesnor.

"*My dear little angel*,—I am this instant going out of town, ten thousand thanks for your kind note, I am sure nothing could make my aking heart to-night bearable to me, than when you say you are sensible how much I love you, pray God it may be over before morning, or that you may be better, I shall be in town at eight o'clock, for I shall long to know how you are, don't mention to D. that I wrote by her servant to you, for I have ordered him not to tell—Adieu, good night. God bless the angel of my soul, joy, and happiness, without whom I have no comfort, and with whom all happiness alive *au revoir* I hope very very soon."

Directed to lady Grovesnor.

"*My dear little angel*,—I wrote my last letter to you yesterday at eleven o'clock, just when we sailed, I dined at two o'clock, and as for the afternoon I had some music, I have my own servant on board that plays, and a couple of hands from London for the six weeks I am out —We were a good many at dinner, I had about nine people yesterday, and shall have more when the rest of my squadron joins me, they staid with me till near seven—I got to supper about nine o'clock but I could not eat, and so got to bed about ten—I then prayed for you my dearest love, kissed your *dearest little hair* and laye down and dreamt of you, had you on the dear little couch ten thousand times, in my arms kissing you, and telling you how much I loved and adored you and you seemed pleased, but alas! when I woke I found it all delusion, nobody but myself at sea, I rose by time at half-past five and went upon deck, there I found my friend Billy, and walked with him for about an hour, till Barrington came to me, we then breakfasted about eight o'clock, and by nine I began and exercised the ships under my command till twelve, it is now one, and when I finish this letter to you my dearest love, I shall dress and go to dinner at two o'clock, it is a rule on board to dine at two, breakfast at eight, and sup at nine—always, if nothing hinders me, I shall be a-bed by ten or soon after, and up by half-past five in the morning, in order to have, if there is any occasion, orders ready for the fleet under my command before I begin to exercise them—I am sure the account of this day's duty can be no pleasure to you my love, yet it is exactly what I have done, and as I promised you always to let you know my motions and thoughts, I have now performed my promise this day to you, and always will, until the very last letter you shall have from me, which will be when I between five and six weeks hence send the Admiralty word that I am arrived at Spithead, then I shall only wait just for their answer which will be with me in a few hours, to strike my flag, and then I shall return to you that instant. O! my love, mad, and happy beyond myself, to tell you how I love you and have thought of you ever since I have been separated from you, the wind being contrary to-day, about one, I put off dinner till three o'clock, in order to anchor ships for this night, in Portland Road, just off Weymouth, about two miles, I hope to sail to-morrow by five o'clock in the morning, I hope you are well, I am sure I need not tell you I have had nothing in my thoughts but your dear self, and long for the time to come back again to you, I will all the while take care of myself because you desire my dear little friend, does the angel of my heart, pray do you take care of yourself, for the sake of your faithful servant, who lives but to love you, to adore you, and to bless the moment that has made you generous enough to own it to him. I hope my dear, nay, I will dare to say you never will have reason to repent it, the wind was not so contrary but we could have sailed on, but I told Barrington that as it was not fair I would anchor, especially as I could send one

of my frigates in, for that I had despatches of consequence to send to London; indeed my dear angel I need not tell you, I know you read the reason too well that made me do so, it was to write to you, for God knows I wrote to no one else, nor shall I to any other but the king. God bless you, most amiable and dearest little creature living—*Aimons toujours mon adorable petite amour je vous adore plus que la vie meme.*

"I have been reading for about an hour this morning in Prior, and find these few lines just applicable to us—

'Now oft had Henry changed his sly disguise,
Unmarked by all but beauteous Harriet's eyes;
Oft had found means alone to see the dame,
And at her feet to breathe his am'rous flame;
And oft the pangs of absence to remove
By letters, soft interpreters of love,
Till time and industry (the mighty two
That bring our wishes nearer to our view);
Made him perceive that the inclining fair
Received his vows with no reluctant ear;
That Venus had confirmed her equal reign,
And dealt to Harriet's heart a share of Henry's pain.'

"Such is my amusement to read those sorts of things that puts me in mind of our mutual feelings and situations; now God bless you till I shall again have an opportunity of sending to you. I shall write to you a letter a day, as many days as you miss herein of me, when I do they shall all come Friday, sixteenth of June, God bless, I shant forget you, God knows you have told me so before, I have your heart and it lies warm in my breast, I hope mine feels as easy to you, thou joy of my life, adieu.

Directed to lady Grovesnor.

Portland Road, Saturday, 17th June

"*My ever dearest little Angel,*—The wind to-day is not fair, so I shall lay here in Portland Road till it is, and take this precious moment in sending this other note to you, I hope it will find you well, and that you are not afraid of being gone out of town before I return back to you, thou lovliest dearest soul! I have been reading since my last note of yesterday to you a great deal out of Prior, keeping the heroine, bye till I have read quite through, and find many things in it to correspond with us exactly,

'Hear, solemn Jove; and conscious Venus, hear,
And thou, bright *maid*, believe me, whilst I swear
No time, no change, no future flame, shall move
The well-placed basis of my lasting love.'

"Do not think I wanted this book with me to tell me how well I loved you, you know the very feelings of my heart, yet it is great pleasure when I am reading to find such passages that coincide so much with my own ideas of dear you, I will write constantly, it is my only entertainment that and hearing from you, will be, except my duty on board, the only thought or employment I shall have or even wish, I have just now had a message from shore, it is about two miles from Weymouth, to go to the rooms this morning, I have excused myself being much quieter on board and happier in writing to you, you are not there, or else the boat that should carry me would go too slow, I long for that happy moment that brings me back again to all I love and to all that I adore—indeed I am sorry my letters are so stupid, pray write to me, you know whether to send them, to send them to D—— or to Mrs. Reda,—I long to hear from you, it is now within two days of a fortnight, indeed it seems forty thousand years, how happy when we meet, that our letters has opened to each other the very feelings of our honest hearts, permit me to name yours with mine, then they will be words and happy looks from two of the most sincere friends alive, your heart is well although fluttered while I write to you, I hope mine is flurried too, they ought to have the same emotions, I know they

have, they are above dissembling, I must now conclude, God bless you, I send you ten thousand kisses, pray when you receive this return them to me for I want them sadly.

"*Adieu je vou aime adorable petite creature je vous adore ma chere petite bejoux l'amant de mon coeur.*——

"God bless I will write constantly."

Directed to Lady Grovesnor.

Different innkeepers were then examined, who proved that the duke and lady Grosvenor had travelled and slept together as man and wife at their houses. The duke always appearing in disguise, in a dark brown wig drawn over his forehead, with his hat pulled over his face, and in a dark brown great-coat. Besides meeting her in many places in London, he followed her to Eaton Hall, near Chester, where he lived incog. at the public houses in the vicinity, meeting her ladyship in the fields. This part of the evidence is curious.

Mary Jones, wife of John Jones, of Marford hill, in the county of Flint, innholder, aged forty-six years, deposed, that she and her husband, John Jones, keep an inn, known by the name of the Toll-house, at Marford hill, in the county of Flint, about six miles and a half from Chester: that she had no knowledge of lord Grovesnor or lady Grovesnor; but had seen them both; and that, on Wednesday, to the best of her knowledge, the 1st day of November, 1769, three persons came to her house at Marford hill, on horseback, with bags, about eleven o'clock in the morning; they all had great-coats on, and the saddle-bags were quite new; and one of them, whom she afterwards knew to be the duke of Cumberland, had a lightish drab coat on, and a blue-and-white flannel waistcoat, and a brownish wig, which came low over his ears, and down upon his forehead, with a handkerchief round his neck; another of the said persons went by the name of Farmer Tush; and the third, who attended as their servant, went by the name of John. His highness was called the young squire, and Farmer Tush passed as his guardian; they refreshed themselves with wine, and bread and butter, and rode out the same morning; they inquired also if they could have good beds? They returned about seven o'clock in the evening, and supped and slept in her house; the next morning, after breakfast, they rode out, ordering dinner to be ready at five o'clock; about three o'clock the said man John returned, and told her, she must hasten dinner as soon as she could, for they talked of going away; and when the duke of Cumberland, and Farmer Tush, whom she afterwards saw at his royal highness's house in Pall-mall, came in, Farmer Tush told her, that they must go off immediately, for they had received a letter that the young squire's father, meaning his royal highness, lay a dying, and they feared he would be dead before they could get to him; but he said that they liked the place vastly, and would come again in a month's time, or sooner, if possible, when his affairs were settled. They had five hats, one of which was laced, and four different riding coats: and the said persons with his highness, changed hats; sometimes one wearing the laced hat, and sometimes the other. It was reported in the neighbourhood, that they were suspected to be highwaymen, and the witness thought so then; they talked about farming, but they knew nothing about the matter. The witness had seen the duke of Cumberland afterwards in London; and, from the features of his face, and a mark that he had on the right side of his face, which she observed when he was at her house, she was certain that the person who came to her house, so disguised, with the other two persons, was his royal highness.

The said three persons left two sticks to be taken care of, and the two plain hats were also left by mistake behind them; and on Thursday, the 30th of November following, the persons who went by the name of Farmer Tush, and the man called John, came in the evening about dusk, each of them

having a led horse in his hand, and both dressed in the same way as when they came before; and they laid all night at her said house; and she inquired of Farmer Tush, where the young squire was, meaning the duke of Cumberland, and he told her they had left him with another gentleman, a long way off: they said, he might come that night, but they did not know whether he would or not, as they had left him far behind: the next day, in the afternoon, Farmer Tush appeared very uneasy that his highness did not come, and every person that came to the house he thought was him. About eight or nine o'clock the next morning, being Saturday, his royal highness arrived in a post-chaise with a gentleman, and brought some saddle-bags with them, and his highness was dressed in the same manner as when he was at her house before; after they had breakfasted, his royal highness and Farmer Tush walked out, and did not return till about five o'clock in the afternoon. On Sunday morning they both went out on horseback, and returned about four o'clock in the afternoon; and his highness, the person who came with him in the post-chaise, and Farmer Tush, dined together; and while they were at her house, the said two persons called each other Farmer, and his highness, the young squire. They always went out about duskish, on horseback, each of them having a pair of saddle-bags.

The evidence of Joseph Richardson and James Parker is not less amusing.

Joseph Richardson, ostler at the Red Lion Inn at Whitchurch, aged thirty-six years, was the next witness. On Friday the 27th of October, 1769, three persons, strangers to him, came on horseback, each of them having saddle-bags, to the Red Lion, about two o'clock in the afternoon. Upon their calling for the ostler, the witness attended: they looked at the stables, but did not like them, and said, they wanted a stable with three or four stalls, that they might lock their horses up. Not approving of the stables, the witness, after some conversation, and they inquiring if lord Grovesnor put up there, recommended them to another house: and one of the persons, whom he afterwards knew to be the duke of Cumberland, had a brownish great-coat on, and a black wig; the second person who attended him, was an elderly looking man; and the third seemed to be a servant, and went by the name of John. From their appearance, and their putting their horses at a different house, and all things together, he suspected them to be highwaymen; and, therefore, he took particular notice of them and their horses; and he particularly observed the one, whom he afterwards knew to be the duke of Cumberland, to have a mark upon his face; and, from such mark, he was firmly convinced that it was his royal highness. About four or five o'clock of the afternoon of the same day, lady Grovesnor arrived at the Red Lion in her own carriage, with post horses.

James Parker, servant to Richard Allen, Esq. of Whitchurch, aged twenty-four years, deposed, that in October, 1769, he was waiter at the inn at Barnhill, in the county of Chester; that he had known lord Grovesnor for about two years, from seeing him pass upon the road; that he once or twice saw lady Grovesnor, and that about nine o'clock in the morning of Saturday, the 28th of October, 1769, three persons, strangers to him, came on horseback to the said inn at Barnhill; that one of them he afterwards knew to be his royal highness, the duke of Cumberland, he taking particular notice of the cut in his face; and he had on a snuff-coloured great-coat, with his hat flapped, and a black wig, which came down over his forehead near to his eyes; and from his odd appearance, and the appearance of those who attended him, he suspected them to be highwaymen, and the more so, because they had their horses locked up, and his highness fell asleep at breakfast, from which he thought he had been upon the watch all night. They dined at the said inn, and inquired about gentlemen's houses in the neighbourhood, as if they were quite strangers; and, amongst other houses, the witness spoke of lord Grovesnor's. Soon after dinner, lady Grovesnor went by in her coach, and he told them it was lady Grovesnor; and in about half an

hour's time, they set off full gallop after her coach, and he imagined it was to attack her ladyship's coach; and the person who was with the duke told the man, who went by the name of John, to follow them in half an hour.

Part of the evidence of Jane Richardson, of the same inn, is highly characteristic of his royal highness's intellectual reputation.

About twelve o'clock at night she was in the dining-room with Miss Mary Spencer, her master's grand-daughter, and they heard a noise, like rustling of clothes in the passage, the passage being very narrow; and the witness said, it was Joe, meaning her husband, Joseph Richardson, who, she thought, was coming to see for her; but, before the witness got to the dining-room door, she heard the door of the room open in which his royal highness lay, and the witness said it was nothing but the fool, meaning his highness, who assumed the character of a fool, and behaved like one, the person who was with him telling the witness, that if she saw him in the passages, or any where about (as he was apt to walk in his sleep), not to touch him or go near him, and she was about opening the dining-room door, to take the key to fasten themselves in, when she heard the door of the bed-chamber in which his highness lay, shut to again; and then hearing no more of him, she and Mary Spencer went to bed. The next morning the duke of Cumberland went away before it was light; and she assisted to make the bed in which his highness lay; and one Mrs. Hall, who helped to make the bed, asked who had lain there? She answered, a fool and his servant; but she knew that the servant did not lie with him; and the witness said, that if the fool came there again, he should not have holland sheets, they were so very much rumpled and tumbled; and looking for the pillow, she found it at the very foot of the bed, between the sheets, which she supposed was one of the fool's foolish tricks.

The conclusion of these intrigues is described in the following manner by John Stephens, adjutant of the Cheshire militia.

On Thursday, the 21st of December, 1769, he breakfasted with lord Grosvenor, at his house in Grovesnor-square; and his lordship communicated to him his suspicions that his royal highness, the duke of Cumberland, would endeavour to meet lady Grovesnor upon her road to London. His lordship was informed (and, upon inquiry, it proved true) that his highness was gone out of town that morning; and his lordship desired the witness to set out and meet his family, in order to assist his brother in detecting lady Grovesnor and his highness, if they should attempt to meet together. Accordingly, he set out about one o'clock in the afternoon for St. Alban's; and finding upon his arrival there, that lady Grovesnor and her family were not come, he got a post-chaise in order to go further. He had then some reason to suppose that her ladyship might not come so far that night; but before he had got out of the town, he met lady Grovesnor and her family; when he returned, and went back to the Bull Inn. As he passed by he beckoned to his brother, who came to him at the Bull Inn; and he acquainted him with the business he was come upon, and the suspicions of lord Grovesnor. His brother left him, and went back to the White Hart; and afterwards returned, and told him, that from the inquiry he had made, he was very certain his highness was there. About a quarter after ten o'clock, he went with his brother to the White Hart Inn, and he went up-stairs; his brother went to listen at the door of lady Grovesnor's bed-chamber, and he came and told him he had heard lady Grovesnor and the duke of Cumberland talking; he listened two or three times at the door. The witness desired him to be very cautious of what he did, lest he should be mistaken; but he said, he was certain it was they, for he knew both their voices well; that he knew very well the breaks of lady Grovesnor's voice, and he was sure it was the duke's voice by his thick way of speaking. Afterwards the witness went and listened at the door himself; but, having then a cold, and not knowing the situation of the

house, he could not pretend to say whether the voices came, or not, from the bed-chamber; but he certainly heard a low and indistinct kind of talking. His brother being certain, he determined to proceed to break open the door, and for that purpose he called my lord's servants up to assist him, to which they agreed. He followed the servants down to the door; and the servants being first placed in order to break open the door, and the signal being given, they made a push, and attempted to break it open, but did not succeed till the fourth push, and then, by the assistance of a poker, which the witness's brother had in his hand, the door was forced open. The first person he saw was his royal highness, the duke of Cumberland, who appeared very much frightened and alarmed, and in great confusion; at the same time his brother went to assist lady Grovesnor, who had fallen down some steps, in attempting to run out of the room into another. His highness followed lady Grovesnor into the adjoining room; and the witness followed his highness, who, as soon as he got into the room, spread forth his hands, and said, you see, gentlemen, that I am not in the lady's room. To which the witness's brother replied, where was you when we broke open the door? His highness said, he would take his Bible oath that he was not in the lady's bed-chamber.

Depositions in recrimination were adduced, in which it appeared that lord Grosvenor himself lived a very dissolute life, and passed much of his time with abandoned women.

The investigation, however terminated in the separation of lord and lady Grosvenor; and in an action brought against the duke, lord Grosvenor recovered £10,000 damages.

ROBERT AND DANIEL PERREAU,

FOR FORGERY.

On the 10th of March, 1775, discovery was made of a series of forgeries, said to have been carried on for a length of time, by Robert and Daniel Perreau, twin brothers; the one an apothecary of great practice, and the other living in the style of a gentleman.

The above parties, together with Mrs. Margaret Caroline Rudd, who lived with Daniel Perreau as his wife, and who was deemed to have been a principal agent in the forgeries, were taken into custody, and carried before the bench of magistrates in Bow-street, where the crowd attending to hear their examination was so great that it became necessary to adjourn to the Guildhall, Westminster.

The evidence there adduced tended to prove that the parties had raised considerable sums by bonds forged in the name of the well-known agent, William Adair, esq., which they imposed on several gentleman of fortune as collateral securities with their own notes for the payment of the said sums.

This transaction was discovered by the following means: Robert Perreau, whose character had been hitherto unimpeachable, applied to Mr. Drummond, the banker, to lend him £5000, and offered a bond for £7500, which he said Mr. Adair had given to his brother, as a security for the payment.

It will now be proper to remark, that, in order to give colour to the validity of these bonds, it had been artfully suggested, that Mrs. Rudd had near connexions with Mr. Adair; and it was even insinuated that she was his natural daughter; but Mr. Drummond, to whom Mr. Adair's writing was familiar, had no sooner looked at the signature, than he doubted its authenticity, and very politely asked Robert Perreau if he had seen Mr. Adair sign it? The

latter said he had not, but had no doubt but it was authentic, from the nature of the connexion that subsisted.

To this Mr. Drummond said, that he could not advance such a sum without consulting his brother, and desired Perreau to leave the bond, promising to return it the next morning, or advance on it the sum required.

Mr. Perreau made no scruple to leave the bond, and call in the morning. In the interim, Mr. Drummond examined the bond with greater attention; and Mr. Stephens, secretary of the admiralty, happening to call, his opinion was demanded; when comparing the signature of the bond with letters he had lately received from Mr. Adair, he was firmly convinced that it was forged.

When Perreau came, Mr. Drummond spoke more freely than he had done before, and told him he imagined he had been imposed on; but begged that, to remove all doubt, he would go with him to Mr. Adair, and get that gentleman to acknowledge the validity of the bond, on which the money should be advanced.

Perreau made not the least objection. They went together; and Mr. Adair was asked if the bond was his. He declared it was not; but Perreau smiled, and said he jested.

Mr. Adair told him that it was no jesting matter, and that it was his duty to clear up the affair. Perreau said, if that was the case, he had been sent on a fine errand. He desired to have the bond, and said he would make the necessary inquiries; but this was refused, and it was thought a point of prudence to watch the motions of Robert Perreau, till Daniel and his pretended wife were produced.

Soon after he returned home, the three parties went into a coach; and, if Mrs. Rudd's testimony may be credited, she took with her what money and valuables she could conveniently carry; and said that the brothers had taken her money, gold watch, and jewels into their possession: but no reason was assigned for their doing so.

Their escape, however, if such was intended, was prevented; for an information being laid against them, they were apprehended, carried before sir John Fielding, and examined at the Guildhall, Westminster, as above mentioned. The facts already mentioned were attested by Mr. Adair, Mr. Drummond, and other persons; and sir Thomas Frankland charged them with obtaining from him £4000 on the first application, which they honestly repaid before the money became due; afterwards £5000, and then £4000 on similar bonds, all signed with the name of Mr. Adair.

Mr. Watson, a money-scrivener, said that he had drawn eight bonds, all of them ordered by one or other of the brothers; but he hesitated to fix on either, on account of the great personal resemblance; but being pressed to make a positive declaration, he fixed on Daniel as his employer.

Dr. Brooke charged the brothers with obtaining from him fifteen bonds of the bank of Air, each of the value of £100 upon the security of a forged bond for £3100.

On the strength of this evidence the brothers were committed, the one to New Prison, and the other to Clerkenwell bridewell; and Mrs. Rudd was admitted an evidence for the crown.

At the sessions held at the Old Bailey, in June, 1775, Robert Perreau, esq. was indicted for forging a bond for the payment of £7500 in the name of William Adair, esq.; and also for feloniously uttering and publishing the said bond knowing it to be forged, with intention to defraud Robert and Henry Drummond, esquires.

Henry Drummond, esq. deposed, that Robert Perreau requested the loan of £1400, having made a purchase in Suffolk or Norfolk to the amount of £12,000. He said he had a house in Harley-street, Cavendish-square, which cost £4000, the deeds of which house he would leave as a security. These he did leave, and promising to return in ten days, the money was paid him. He

came some time afterwards, and apologized for not having kept his appointment; and said he then came to borrow £5000 on the bond, out of which he would pay the £1400 above mentioned.

Mr. Drummond and his brother doubting the validity of the bond, Perreau said there were family connexions between him and Mr. Adair, who had money of his in his hands for which he paid interest.

A great part of what Mr. Drummond delivered in evidence has been already given in the former part of this narrative. Mr. Drummond going with the prisoner to Mr. Adair's, Mrs. Daniel Perreau (Mrs. Rudd) was sent for, when Robert asked her if she had not given the bond to him. She owned that she had, took the whole on herself, and acknowledged that she had forged the bond.

The counsel for the prisoner asking Mr. Drummond if he was certain that the prisoner said it was his money that Mr. Adair paid interest for, he answered in the affirmative. He declared likewise, that Mr. Perreau did not make the least objection to leaving the bond with him, nor showed any reluctance in going with him to Mr. Adair's house.

He likewise said, that Mrs. Rudd took the whole on herself, begged them for God's sake to have mercy on an innocent man; and that she said no injury was intended to any person, and that all would be paid; and that she acknowledged delivering the bond to the prisoner.

The counsel demanding if Mr. Drummond and Mr. Adair, after hearing what Mrs. Rudd said, had not expressed themselves as considering the prisoner as her dupe; the answer was, we both expressed ourselves to that effect. A constable had been sent for, and we discharged him.

The identity of the bond was proved by Mr. Wheatly, clerk to Messrs. Drummond. The evidence of Mr. Robert Drummond was not, in any very essential point, different from that of his brother. He deposed, that when Mrs. Rudd had acknowledged that she forged the bond, he expressed his doubt, the handwriting being so different from that of a woman, and said nothing would convince him of it but her showing on a piece of paper that she could write that sort of hand. He said he did not mean to ensnare her, and would immediately throw the writing into the fire. Mrs. Rudd instantly wrote William Adair, or part of the name, so very like the signature of the bond, that it satisfied him, and he burnt the paper. Robert Perreau then said, that he hoped that the information she had given sufficiently acquitted him; but he was told he had better not inquire into that, and on this occasion he showed the first sign of anxiety.

Sir Thomas Frankland deposed, that the prisoner brought him two bonds at different times, one to Daniel Perreau for £6000, and the other to himself (Robert) for £5300; that for £5300, on which he lent him £4000, was to be repaid on the 26th of March, with the three days grace; the other was due on the 8th of March.

Mr. Wilson declared that he filled up the bond at the desire of the prisoner, and produced his instructions for so doing. He likewise acknowledged that he had filled up other bonds for the prisoner.

That the handwriting at the bottom of the bond was not the handwriting of William Adair, was proved by Scroop Ogilvie and James Adair, esqrs. Mr. James Adair was now questioned by counsel respecting a private interview he had with Mrs. Rudd; but the court doubted if this might be allowed as evidence. After some observations made by the counsel for the prisoner, a letter was read, which he presumed had been sent him by William Adair, esq.; but which appeared to have been written by Mrs. Rudd, but was scarcely intelligible.

The prisoner made his defence in the following terms:

My lords and gentlemen of the jury, if I had been wanting in that fortitude which is the result of innocence, or had found any hesitation in submitting my proceedings to the strictest scrutiny, I need not at this day have stood

before my country, or set my life upon the issue of a legal trial. Supported by the consciousness of my integrity, I have forced that transaction to light, which might else have been suppressed; and I have voluntarily sought that imprisonment which guilt never invites, and even innocence has been known to fly from; ardently looking forward to this hour, as the sure, though painful, means of vindicating a character, not distinguished, indeed, for its importance, but hitherto maintained without a blemish. There are many respectable witnesses at hand (and many more, I persuade myself, would be found, if it had been necessary to summon them upon a point of such notoriety) who will inform your lordships and the court, how I have appeared to them to act; what trust has been reposed in me, and what credit I had in their opinions, for my diligence, honesty, and punctuality. In truth, my lords, I am bold to say, that few men in my line of life have carried on their business with a fairer character, not many with better success. I have followed no pleasures, nor launched into any expenses: there is not a man living who can charge me with neglect or dissipation. The honest profits of my trade have afforded me a comfortable support, and furnished me with the means of maintaining, in a decent sort, a worthy wife, and three promising children, upon whom I was labouring to bestow the properest education in my power; in short, we were as happy as affluence and innocence could make us, till this affliction came upon us by surprise, and I was made the dupe of a transaction from whose criminality I call God, the searcher of all human hearts, to witness, I am now as free as I was at the day of my birth. My lords and gentlemen of the jury, men who are unpractised in deceit will be apt to credit others for a sincerity which they themselves possess. The most undesigning characters have at all times been the dupe of craft and subtlety. A plain story with the indulgence of the court I will relate, which will furnish strong instances of credulity on one part, and at the same time will exhibit a train of such consummate artifices on the other, as not to be equalled in the annals of iniquity and which might have extorted an equal confidence from a much more enlightened understanding than I can claim.

The prisoner now proceeded to call his witnesses.

George Kinder deposed, that Mrs. Rudd told him "that she was a near relation of Mr. James Adair; that he looked upon her as his child, had promised to make her fortune, and with that view had recommended her to Mr. William Adair, a near relation, and intimate friend of his, who had promised to set her husband and the prisoner up in the banking business." He likewise deposed that the said Mr. Daniel Perreau was to be made a baronet, and described how she would act when she became a lady. This witness deposed, that Mrs. Rudd often pretended that Mr. William Adair had called to see her, but that he had never seen that gentleman on any visit.

John Moody, a livery-servant of Daniel Perreau, deposed, that his mistress wrote two very different hands, in one of which she wrote letters to his master, as from Mr. William Adair, and in the other the ordinary business of the family; that the letters written in the name of William Adair were pretended to have been left in his master's absence; that his mistress ordered him to give them to his master, and pretended that Mr. Adair had been with his mistress for a longer or shorter time, as circumstances required. This witness likewise proved that the hand at the foot of the bond and that of his mistress's fictitious writing were precisely the same; that she used different pens, ink, and paper, in writing her common and fictitious letters; that she sometimes gave the witness half a crown when he had delivered a letter to her satisfaction. He said he had seen her go two or three times to Mr. J. Adair's, but never to William's; and that Mr. J. Adair once visited his mistress on her lying-in.

Susanna Perreau (the prisoner's sister) deposed, to the having seen a note delivered to Daniel Perreau, by Mrs. Rudd, for £19,000, drawn as by William Adair, on Mr. Croft, the banker, in favour of Daniel Perreau.

Elizabeth Perkins swore that, a week before the forgery was discovered, her mistress gave her a letter to bring back to her in a quarter of an hour, and say it was brought by Mr. Coverly, who had been servant to Daniel Perreau; that she gave her mistress this letter, and her master instantly broke the seal.

Daniel Perreau declared that the purport of this letter was, "that Mr. Adair desired her to apply to his brother, the prisoner, to procure him £5000 upon his (Adair's) bond, in the same manner as he had done before; that Mr. Adair was unwilling to have it appear that the money was raised for him, and therefore desired to have the bond lodged with some confidential friend, that would not require an assignment of it;" that his brother, on being made acquainted with his request, showed a vast deal of reluctance, and said it was a very unpleasant work; but undertook it with a view of obliging Mr. William Adair.

The counsel for the prosecution demanding, "if he did not disclaim all knowledge of the affair before Mr. Adair," he said, he denied ever having seen the bond before, nor had he a perfect knowledge of it till he saw it in the hands of Mr. Adair.

David Cassady, who assisted Mr. R. Perreau as an apothecary, deposed, that he lived much within the profits of his profession, and that it was reported he was going into the banking business.

John Leigh, clerk to sir John Fielding, swore to the prisoner's coming voluntarily to the office, and giving information that a forgery had been committed; on which Mrs. Rudd was apprehended. Mr. Leigh was asked, if she "ever charged the prisoner with any knowledge of the transaction till the justices were hearing evidence to prove her confession of the fact." Mr. Leigh answered, that he did not recollect that circumstance, but that on her first examination she did not accuse the prisoner.

Mr. Perreau now called several persons of rank to prove his character. Lady Lyttleton being asked if she thought him capable of such a crime, supposed she could have done it as soon herself. Sir John Moore, sir John Chapman, general Rebow, captain Ellis, captain Burgoyne, and other gentlemen, spoke most highly to the character of the prisoner: yet the jury found him guilty.

Daniel Perreau was indicted for forging and counterfeiting a bond, in the name of William Adair, for £3300, to defraud the said William Adair; and for uttering the same knowing it to be forged with intent to defraud Thomas Brooke, doctor of physic. Mr. Scroope Ogilvie, who had been clerk to Mr. William Adair nine or ten years, proved the forgery; and Dr. Brooke proved the uttering of the forged bond.

By way of defence, the prisoner declared that Mrs. Rudd had given him the bond as a true one; that he believed it genuine, authentic, and valid; and protested, by all his hopes of happiness in this life, and in a future, that he had never conceived an idea of any thing so base as the defrauding any man of his property. He added, "I adjure the Almighty so to assist me in my present dangerous situation, as I speak truth before you."

Mr. Daniel Perreau called several persons to prove the artifices which Mrs Rudd had practised to deceive him. Many persons of fortune and credit appeared to his character; and spoke of his conduct previous to the fatal event in terms of the highest approbation; but the jury brought in a verdict of guilty; and the unfortunate brothers received sentence of death, but were not executed till January, 1776, because, though Mrs. Rudd had been admitted an evidence, yet the judges committed her as a principal, as will be seen more at large in the account of the subsequent trial.

After conviction, the behaviour of the brothers was, in every respect, proper for their unhappy situation. Great interest was made to obtain a pardon for them, particularly for Robert, in whose favour seventy-eight bankers and merchants of London signed a petition to the king; the newspapers were filled with paragraphs, evidently written by disinterested persons in favour of men whom they thought dupes to the designs of an artful woman: but all this

availed nothing. On the day of execution the brothers were favoured with a mourning coach, and it is said that 30,000 people attended. They were both dressed in mourning, and behaved with Christian resolution. When they quitted the coach and got into the cart, they bowed respectfully to the sheriffs, who waved their hands as a final adieu.

After the customary devotions, they crossed their hands, joining the four together, and in this manner were launched into eternity. They had not hung more than a half a minute when their hands dropped asunder, and they appeared to die without pain.

Each of them delivered a paper to the ordinary of Newgate, declaring their innocence, and ascribing the blame of the whole transaction to the artifices of Mrs. Rudd; and the majority of the people gave credit to their assertions. They were executed at Tyburn on the 17th of January, 1776.

MARGARET CAROLINE RUDD,

FOR FORGERY.

On the 8th of December, 1775, Margaret Caroline Rudd was indicted for feloniously forging a bond, purporting to be signed by William Adair, and for feloniously uttering and publishing the same.

Having been brought to the bar in September sessions, to plead to the said indictment, and her counsel contending that she ought not to be tried, as she had acknowledged herself an accomplice, and had been admitted an evidence by the magistrates, and the judges "differing in the opinion on the point of law;" reference was had to the opinion of all the judges, that the matter might be finally settled, how far, under what circumstances, and in what manner, an accomplice, received as a witness, ought to be entitled to favour and mercy.

Mr. Justice Aston now addressed the prisoner, informing her that eleven of the judges had met (the chief-justice of the common pleas being indisposed), "and were unanimous in opinion, that, in cases not within any statute, an accomplice who fully discloses the joint guilt of himself and his companions, and is admitted by justices of the peace as a witness, and who appears to have acted a fair and ingenuous part in the disclosure of all the circumstances of the cases in which he has been concerned, ought not to be prosecuted for the offences so by him confessed, but cannot by law plead this in bar of any indictment, but merely as an equitable claim to mercy from the crown; and nine of the judges were of opinion that all the circumstances relative to this claim ought to be laid before the court, to enable the judges to exercise their discretion whether the trial should proceed or not. With respect to the case before them, the same nine judges were of opinion, that if the matter stood singly upon the two informations of the prisoner, compared with the indictments against her, she ought to have been tried upon all, or any of them; for from her informations she is no accomplice: she exhibits a charge against Robert and Daniel Perreau, the first soliciting her to imitate the handwriting of William Adair, the other forcing her to execute the forgery under the threat of death. Her two informations are contradictory; if she has suppressed the truth, she has no equitable claim to favour; and if she has told the truth, and the whole truth, she cannot be convicted. As to the indictments preferred against her by sir Thomas Frankland, as her informations before the justices have no relation to his charges, she can claim no sort of advantage from these informations."

The trial was now proceeded in. The principal evidences were the wife

of Robert Perreau, and John Moody, a servant to Daniel. The first endeavoured to prove that the bond was published, the latter that it was forged. Sir Thomas Frankland proved that he had lent money on the bond. It was objected by the counsel for the prisoner, that Mrs. Perreau was an incompetent witness, as she would be interested in the event; but the court overruled this objection.

Mrs. Perreau deposed, that, on the 24th of December she saw Mrs. Rudd deliver a bond to her husband, which he laid on the table while he brushed his coat; that it was for £5300, payable to Robert Perreau, and signed William Adair; and that it was witnessed in the names of Arthur Jones and Thomas Start, of Hart. Mrs. Perreau being asked when she again saw the bond, said it was brought to her on the 8th of March (the day after her husband was convicted), when she selected it from other bonds delivered to him on the 24th of December. She made her mark on it, and deposed that when it was delivered to Mr. Perreau, Mrs. Rudd said, "Mr. Adair would be very much obliged to Mr. Perreau to try to raise upon that bond the sum of £4000 of sir Thomas Frankland."

John Moody, who had been servant with Mrs. Rudd, deposed that his mistress wrote two different hands, a common and a feigned one; that in her common hand she noted the usual business of the house; but, that when she wrote letters, as coming from William Adair, she wrote her feigned hand. A bond signed William Adair was now shown him; and he said, "the name appears to be the same hand the letters were wrote in, which I gave to Daniel Perreau, as coming from Mr. William Adair, and which I saw Mrs. Rudd write the direction of." He was asked if he thought Mr. Adair's name was of the prisoner's writing. He replied, I believe it is her handwriting.

Sir Thomas Frankland proved the lending Robert Perreau £4000 on the bond in question, and that he had given him a draft for £3890, deducting the discount of £5000 formerly lent, with the discount of the money then borrowed, and £15 10s. for a lottery ticket: that he had since received, among other things, jewels to the value of £2800, with women's wearing apparel, &c. which might, for what he knew, be the prisoner's, but were sold to him by the two Perreau's by a bill of sale.

Christian Hart deposed that she had received a paper from the prisoner, tending to prove that there was a combination against her life, to have been concerted at the house of this witness, by sir Thomas Frankland and the friends of the Perreaus.

It was now demanded of Mrs. Rudd what she would say in her defence. She addressed the jury in a short but sensible speech, and concluded in these words, "Gentlemen, ye are honest men, and I am safe in your hands."

The jury, after a short consultation, gave in their verdict in the following singular, and perhaps unprecedented words: "According to the evidence before us, *not Guilty*."

HENRY WHITE, JUN.

FOR A LIBEL ON THE DUKE OF CUMBERLAND, MARCH 5, 1813.

THIS was an information filed by his majesty's attorney-general against the defendant. The first libel was in the form of a letter, addressed "To the duke of **********," with this motto, "*Qui capit ille habet;*" and signed *Philo-Junius.* It commenced with observing, that no doubt a "*dignified retreat*" had been prepared for his royal highness abroad; and that he was then possibly solacing himself with the idea of becoming a splendid transport.

But before his royal highness was *off*, the writer expressed his wish to put "a few home questions" to him. The writer then went on to observe, that if those questions were answered fairly, he should be satisfied; but it was for the interest of society that *great men* should be *good*. He looked only for goodness; he could not venerate the adulterer, though he might be dressed in ermined robes, nor the murderer, though he might wear a coronet. The veil had been drawn aside; he was the subject of observation in every pot-house and night-cellar. It was a matter of publicity that his royal highness's life had been attempted by a domestic; for which attack that servant had by some means forfeited his own life. Soon, however, after this event, the writer had reasons, from circumstances, to doubt the correctness of the fact found by the coroner's inquest; namely, that Sellis met with death by his own hands; and it was with the earnest desire of putting these doubts at rest, that the writer now gave his royal highness the opportunity of answering a few home questions! The "few home questions" were of the following tendency:—

First, was not the report well founded, that it was not till repeated attempts had been made, that a jury could be found sufficiently hardy to say that Sellis was his own executioner? Secondly, was not the razor, with which it was concluded that the business was done, found at a great distance from the body? Thirdly, was not the coat of the domestic, drenched with blood, found on a chair at a considerable distance from the body? Fourthly, whether the basin was not placed deliberately at the side of the bed, evidently for the purpose of catching the blood? Fifthly, whether the body was not nearly cold when found? Sixthly, whether Sellis was not troubled with such an asthmatic cough that it would have been impossible for him to conceal himself for more than half an hour without betraying himself? Seventhly, as to the situation of the slippers in the closet in which it was supposed that he concealed himself? Eighthly, was not the neckcloth cut in pieces in such a way as to militate strongly against the idea of the deceased having cut his throat? From the foregoing circumstances this inference might be drawn—that Sellis did not cut his own throat.

The writer presumed, if these home questions were answered at all, that they would be answered in the affirmative! Such being the case, nothing could resist the inference that Sellis was not his own murderer, from the deliberate arrangement of the clothes, the body, the basin, &c., the latter being placed as if to save the blood for ulterior purposes. Such was the story; but it was a foul business at best. It, however, should be fathomed. Philo-Junius next observed, that he had only been able to discover one trait of any thing like kindness or tenderness in his royal highness's conduct, namely, in not suffering the mangled remains of his servant to be buried in cross roads to satisfy impertinent curiosity. The farce, it was true, had been well performed, and with admirable theatrical effect. As to the rites of the church not having been performed over those mangled remains, he was not inclined to find fault on that account; believing, as he did, with firm and true Christian faith, that the better part of Sellis would find its way to those regions where it would not meet with another rencontre with his more than ——— master. Such was the first libel: the second also purported to be a letter, referring to the first libel, and was addressed to the editor. It expressed how much "shocked" the author had been at the first noticed letter, as he "had never entertained any doubt about the ——————— being the murderer of Sellis!" &c. &c.

Sir William Garrow, as counsel for the prosecution, made a short speech.

For the defendant, Mr. Scarlett addressed the court at considerable length. He commented on the language of the libel, and endeavoured to urge that no innuendo could be drawn from it, whereby any imputation could be cast upon the duke of Cumberland, to the effect which the information set forth. He argued with considerable ingenuity, that it did not follow (even if it were

true that Sellis had not committed suicide), that therefore the duke of Cumberland had caused his death. All he contended the publication meant, was merely that rumours had announced some suspicions that Sellis did not destroy himself; but it never went the length of asserting that the royal duke was privy to his destruction; on the contrary, it merely so stated the rumour, and expressed nothing that could give it the colour of imputing so foul an act to that illustrious personage, and he therefore denied that the solicitor-general was warranted in giving innuendoes to the publication which it did not in his judgment convey; but he admitted that the jurors were the proper judges of that fact. To illustrate his reasoning, he appealed to several intermediate publications of that paper, which appeared between the 30th of August and the 27th of September, all of which, he contended, went to demonstrate that so far from imputing such an act to the duke of Cumberland, they were all so many arguments to assert the honour and purity of that royal personage.

Lord Ellenborough summed up for the jury, and said it would be for them to determine whether they had any doubts that the libels meant to accuse the duke of Cumberland of having had a guilty concern in the death of Sellis. His lordship thought it was impossible for any one to peruse the libels without having the firm conviction on his mind that they had been written "for the distinct and unequivocal purpose of maintaining that Sellis did not die by his own hands, and that the duke of Cumberland had been concerned in accomplishing such death." The "home questions," for instance; did they not directly and unequivocally allude to the alleged fact, "that the duke had some criminal connexion with the death of Sellis?" But before he was "off," the writer said, he would put a few questions to him. What! was it to be endured that this journalist should erect his tribunal, and that he should summon whom he pleased before his spurious jurisdiction, while the laws of the land were in full operation? Was such a spurious jurisdiction to impute crimes, and then to be suffered to put a string of questions to the accused? He knew it was much the habit of the journals of these times to erect themselves into tribunals; and to call on every man to whom they chose to impute a crime to obey their tyrannic despotism, and to answer to the charges preferred against them. He would declare, that sooner than submit to be catechised in this way, he would rather live under the arbitrary rule of the tyrant of France; for he should deem that preferable to living under the arbitrary despotism of those journalists. It was his duty to pronounce a character upon the libels, and he did so by pronouncing those now before them to be most atrocious and notorious libels.

The jury almost immediately returned a verdict of guilty; and on the 24th of May the defendant was again brought before the court, and sentenced to be imprisoned in Newgate fifteen calendar months, and to pay a fine of £200.

PHILIP NICHOLSON,

FOR THE MURDER OF MR. AND MRS. BONAR, AT MAIDSTONE, AUGUST, 1813.

Philip Nicholson, the murderer of Mr. and Mrs. Bonar, was born near Belfast, in Ireland; but quitting that country, he enlisted in the 12th dragoons, and being a smart active young fellow, was chosen for an officer's servant: being wounded in action, he contrived to obtain his discharge, and a pension of nine-pence per day. Having a good character from his officers, he procured a situation as servant with the city remembrancer, and from thence got into Mr. Bonar's family as footman. His father was also a pen

sioner, and had lately come from Ireland to receive his pension in Chelsea, where he resided, and worked at hay-making. Philip Nicholson called a few days before he committed the murder at the house of Mr. Munro, a respectable publican in Jew's-row, Chelsea, which his father frequented, and to whom both were known. He sent for his father, to whom he brought a bundle of clothes, some cold roast beef wrapt up in paper, and paid his score in the house. After he quitted the house, his father inquired of Mr. Munro if his son had ordered him any weekly allowance until he received his pension; he was answered that he had not; when his father made use of this remarkable expression, d—n him, the rebel, he was a rebel in Belfast, and long since deserved the gallows. The wretched man was a Catholic, and much bigotted; he constantly attended mass. Whilst he was in the public-house, the conversation turned on the Catholic bill. He lamented much the fate of it in the house of commons, and cursed those who opposed it: it is said that when he waited at dinner on his master, Mr. Thomson Bonar, the day after the bill was lost, he heard Mr. Bonar express his high satisfaction at the result, and it has been thought Nicholson was resolved to be revenged on him; but it appeared from his own declaration that this was not the case.

Mr. and Mrs. Bonar resided in a handsome mansion, called Camden Place, at Chiselhurst, in Kent. Mr. Bonar was partner with Mr. Angerstein, the eminent insurance broker, and both were distinguished for their benevolence and philanthropy.

On the Sunday evening preceding the murder (May 30, 1813), Mr. Bonar went to bed at his usual hour; but Mrs. Bonar did not follow him till two o'clock, when she ordered her female attendant to call her at seven. The servant, at the appointed time, went to the bed-room of her master and mistress, who usually slept with their door open at this season; but she found Mr. Bonar mangled and dead upon the floor, and her lady wounded, insensible, and dying in bed. A bent poker which was lying on the ground, and the fractured condition of the heads of the unfortunate victims, too plainly denoted with what instrument the act had been committed.

As there were some remains of life in Mrs. Bonar, servants were sent express to town for surgical assistance; but they arrived too late; the wounds were mortal, and she expired at one o'clock, having, during the whole previous time, been insensible, and only once uttering the exclamation of Oh dear!

Such a scene of horror as the bed-room presented had seldom been witnessed. The first object was the dead body of Mr. Bonar, with the head and hands dyed in blood: the skull being broken into fragments, in two or three places; and there was a dreadful laceration across the nose, as if effected by the edge of the poker. His hands too were mangled in several places, apparently by the same instrument, and there was a severe wound on the right knee. From the numerous wounds on the body of Mr. Bonar, the swollen state of his mouth, and the convulsive adhesion of his hands and knees, it was clear he had struggled with all his force against his assassin. His night-cap, which lay a few paces from the head, was drenched in blood, with a lock of his gray hair sticking to it, which seemed to have been struck from the skull by the violence of the blow of the poker. The pillow of his bed lay at his feet also covered with blood. The manly athletic person of Mr. Bonar (for though seventy he was still a powerful man) gave an increase of horror to this afflicting sight. The view of Mrs. Bonar, though equally distressing, excited more pity than terror; though her head had been fractured in a dreadful manner, yet there was a calm softness in her countenance, more resembling a healthy sleep than a violent death; it might have been supposed that her life had parted from her without one painful effort. The linen and pillow of the bed in which she lay were covered with blood, as was also the bed of Mr. Bonar. They slept in small separate beds, but placed so close together that there was scarcely room for a person to pass between them.

About seven o'clock in the evening, Mr. Bonar, jun. arrived from Faversham, where he was on duty as colonel of the Kent local militia. In spite of the efforts of Mr. Angerstein, jun. and some other gentlemen, he rushed up-stairs, exclaiming, "let me see my father: indeed I must see him." It was impossible to detain him; he burst into the bed-chamber, and immediately locked the door after him. Apprehensions were enterrained for his safety, and the door was broken open, when he was seen kneeling with clasped hands over the body of his beloved father.

Yet it appeared that there had been no attempt at robbery, and no motive could be imagined for the assassination of two persons who were universally beloved by all who knew them. No part of the house had been broken open, but the house-door was found open in the morning. Mrs. Bonar did not retire to bed till two o'clock; and at four o'clock a washer-woman let herself in. None of the servants had been alarmed by any cries in the night, but their division of the house was at some distance from the wing in which Mr. and Mrs. Bonar slept; and though the room was covered with blood, there was no trace of a bloody footstep, and only one or two drops in the anti-room or hall.

About seven o'clock in the morning, when the alarm was first raised among the servants, the footman, Philip Nicholson, was sent express to London on one of the best horses in the stable. He went first to the house of Mr. Astley Cooper, in Broad-street, thence to the Red Lion, near Bedlam, where he saw one Dale, a man who had lately been discharged from the service of Mr. Bonar, and to whom he thus expressed himself:—*The deed is done, and you are suspected: but you are not in it.* He then proceeded to the office at Bow-street to give information of the murder, and stated that he had seen Dale at the Red Lion, when his insinuations induced the officers to go after Dale. Nicholson appeared intoxicated at the office: indeed he had been seen to take three glasses of rum at the half-way house. The officers then directed him to follow them, but they soon lost sight of him.

Dale, to whom the officers went in consequence of what was said by Nicholson, had been butler in the family, and was discharged about a fortnight previous for such ill conduct that Mrs. Bonar wished to have him prosecuted, but Mr. Bonar was content to dismiss him. He underwent an examination before the magistrates, but was dismissed, because he had clearly established an *alibi*, proving that he was at the Red Lion from eleven o'clock on Sunday evening till six o'clock on Monday morning. He was therefore suffered to return to his wife, who resided at Chislehurst.

Suspicion having now fallen on Philip Nicholson, owing to his incoherent language and conduct, and to his not returning direct to Chislehurst, a warrant was granted by the lord mayor for his apprehension, and one of the city officers went in quest of him. After diligent inquiry, he was found, on horseback, drinking at the inn door of the Three Nuns, in White-chapel. A smart scuffle ensued, in which Nicholson received some bruises, but he was secured, and conveyed to Giltspur-street compter. He was now in a state of intoxication approaching to insanity.

Next day he was brought to the Mansion-house, and it appeared that he had conducted himself since the death of his master and mistress in the most unfeeling manner. He said, that the night preceding the murder he went to bed about twelve o'clock, and knew nothing of what had happened until called up by the housemaid about eight o'clock next morning, and that he had fastened some of the windows inside at the usual hour, while the rest were attended to by the housemaid.

It further appeared that on the murder being discovered, and the servants assembled, he with others went to the room where his master and mistress lay. The former was found quite dead, in a mangled state, and the latter just evinced signs of life; he himself ascertained the fact by placing his ear near to the mouth of his mistress. The floor was covered with blood and

other matter. He then took the sheets from his master's bed, and with them wiped the floor; and having done so, he took the bloody linen to the room where he slept. The groom was present, and assisted him to pull the upper sheets from his own bed to fold with those of his master's, and he then put them altogether under his own bed.

Upon this point he was closely pressed by the lord mayor, and was desired to explain his motive for using the sheets to absorb the blood, and then afterwards to fold them in the linen from his own bed, when he ought to have known that in such cases nothing should be disturbed about the persons of the deceased. He answered he was ignorant of that; what he had done was with the best intention, conceiving as he did that so horrid and unpleasant a sight would have been offensive to any person having occasion to enter the room. The other servants, he admitted, would touch nothing. His night shirt, he said, he left in his bed when he got up, and it might be found. He was then asked as to a footmark in blood which appeared on the stairs leading from his apartment to that in which the murders were committed, and he said, if there were any, it might have been done when he went backwards and forwards with the soiled sheets; but he was told that the mark had been seen before he left his room in the first instance. He was then stripped and examined in a private room, in order to see if he had any bruises about him, which he might have received in the conflict with Mr. Bonar. Trifling bruises were found on his person, particularly one on his forehead; but those were explained to have been received in the scuffle with the city officer.

On being questioned as to his conduct on the way to town, the prisoner admitted that he left Chislehurst a little after eight o'clock, and that he refreshed himself and the horse three times on the road, himself with three glasses of rum, and the horse with three pints of porter; and notwithstanding this, it appeared, both from his own admission and from information derived from Mr. Astley Cooper, that he performed the journey of twelve miles in about forty minutes.

After giving information at Bow-street, instead of returning home to Chislehurst, he repaired to White-chapel, to call on his friends, with whom he was making merry when he was taken into custody. He was now sent to Chislehurst in care of two officers to give evidence before the coroner's jury.

The inquest closed their sitting at one o'clock on Wednesday morning, and returned a verdict of *wilful murder against Philip Nicholson, the footman*, and at twelve o'clock news was brought that he had cut his throat. He had secreted a razor from the butler's pantry, where he was first confined, in the pocket of his small clothes, and had cut his throat whilst in the water-closet. A surgeon who attended the inquest immediately sewed up the wound. The gash was so deep, and he bled so copiously, that it was supposed he could not live many minutes. The wound was so large that the head was almost severed from the body. He was able to speak, though he would make no confession, but persisted in declaring his innocence, and appeared calm and composed during the whole period that he was sensible.

On Monday the 7th of June, he confessed himself to be the perpetrator of the murder. On that day he was visited by lord Castlereagh, lord Camden, lord Robert Seymour, and others, and showed repeated symptoms of annoyance and agitation, which caused his wound suddenly to bleed afresh; and the hæmorrhage being of an alarming nature, Mr. Bramston, a Romish priest, came to him. On Tuesday morning Nicholson voluntarily requested Mr. Bramston to bring colonel Bonar to him immediately, when Nicholson, bursting into tears, expressed his wish to make a full confession; and he made, and afterwards signed a deposition, acknowledging himself to be the murderer. In consequence of his information, search was made for his bloody linen, and it was found in a laurel-bush close to the house, covered with leaves, the stockings were very bloody, and the shirt was rent almost to rags about the neck and front.

He was tried at the following Maidstone assizes for petty treason. The indictment differed from a common indictment for murder, by an averment stating that Nicholson was servant to Mr. Bonar, and that he *traitorously* as well as feloniously murdered his master. He pleaded not guilty, in consequence, he said, of the persuasion of several persons.

The first witness called was Mary Clarke. At half-past seven o'clock the housemaid waked her, and told her there was a bad smell in the anti-room coming from the bed-chamber of her mistress, and asked the witness whether she had lit the rushlight, which was gone, and whether she had locked the door of the anti-room on the outside; at the same time she told the witness that there were footmarks in the anti-room. Witness immediately was much alarmed, and cried out (as she was told, for she was too much agitated to have any recollection of the circumstance) that there had been murder. The unusual circumstances which had been mentioned to her induced her to think that something dreadful had been done. She went up-stairs with the housemaid, and knelt down on the floor of the anti-room, to see what the marks were, and thought they looked like blood; she did not know whether she then looked into the bed-room; but thought she did, and saw the toilet thrown over, and some things lying on the floor. Witness then went to the wash-house, to the laundry-maid, and asked her to go back with her to see what was the matter; they proceeded together to the bed-room, when the laundry-maid went in and opened one of the window shutters, and, on looking back, she clapped her hands together and screamed: witness saw the bedclothes and other things on the floor; she then ran down-stairs, leaving the laundry-maid behind: in the servants' hall, she saw the coachman, who made her sit down, as she was fainting; when she recovered herself, she saw the footman, Nicholson, coming into the servants' hall, with what she thought, were bloody sheets in his hands: he took a sheet from his bed, and folded the bloody sheet or sheets in it; the footman then said to witness, Mrs. Clarke, go to your mistress; she is still alive, perhaps she may be recovered: she then ran up-stairs, and saw her master's body covered with, she believed, a blanket, on the floor; her mistress was in bed, and still breathing; did not see her mistress afterwards till she was dead.

Susannah Curnick was next sworn; she rose about half-past six, leaving Mrs. Clarke in bed: in passing through the hall, she observed the house-door about half open, a circumstance she had never seen before; she shut the door, and then went to the lawn-door, which was shut, but the shutters were open. The window shutters in the library were closed; she then went into the drawing-room, where all the windows were shut but one in the centre, which was wide open; she went up-stairs, and found the anti-room locked, with the key outside; she opened the door, and saw footmarks on the floor, and the rushlight was not in its stand. She then repaired to her own room to call Mrs. Clarke, to whom she told the circumstances which she had witnessed. Mrs. Clarke exclaimed in great alarm and agitation, then my master and mistress are murdered! She helped Mrs. Clarke on with her gown, and they went together to the bed-room. Mrs. Clarke was afraid to go in, and witness did not go in, as she had never been accustomed so to do. They knelt down, and saw that the footsteps were bloody. They then went together to the pantry. Witness did not go up again till after the footman came down with the sheets. The footman cried out for assistance, saying his mistress was not yet dead. The footman left the bundle in the hall, and said he would go to Mr. Astley Cooper, and for his master's partner, as he said he was the fittest person to know what had happened. He then went down the yard with the coachman. The poker in the bed-room lay between her master and the blanket, on the floor. Had never seen any thing particular in the footman's conduct. Saw him both before and after the discovery in the morning, and he appeared sober.

Penelope Folds had been laundry-maid in the family fifteen years. She

rose a little after four o'clock on the Monday morning, and soon after the washerwoman came, who let herself in by the laundry door. About half-past seven Mrs. Clarke came to witness in the laundry, and said she was afraid something was amiss; and asked the witness to go up-stairs with her. She did so, and went into the bed-room, and opened part of one of the window shutters. She saw her master's body lying on the floor, and blood on her mistress's pillow. She came down-stairs and went up again, when she saw the footman covering her master with a blanket; he said that Mrs. Bonar was still alive; he was the first who made this remark: it was not made to him: he said he must go to town, though she desired him not to leave the house without a man in it.

William Evans, the groom, had been in the service of the family since December. He was in the house till after twelve o'clock on Sunday evening, sitting with the footman, and never saw him in better humour. He had never heard him say any thing disrespectful of his master or mistress, except now and then an angry expression at being overworked—such as, "D—n the old woman, she wears me out." He said that he saw the footman dabbing the sheets in the blood, at the foot of the bed.

W. Randall had been coachman in the family for eight years: slept over the stables; came to the house about half-past seven, and went to call Nicholson; found him sitting on his bed-side; and almost immediately heard the cry of murder from the female servants. It was not long before he saw Nicholson come down-stairs with bloody linen, and wrap it up in a sheet in the servants' hall. The footman was a very quiet, good fellow servant, but used, when he had money, to get drunk. The rest of the servants observed they could not have handled the sheets as Nicholson did. Nicholson was very anxious to go to London, and would have a horse. Coachman thought Nicholson wild-looking when he went away, and appeared as if he could not ride, though he had been in the dragoons.

Charles King had been a labourer for seven years in the family; came to work at between five and six on Monday morning; came to the house about twenty minutes after six: got into the house by the laundry; went into the hall, and found the front door open. Philip was then in bed; he went to him, and said, "How is it you sleep with the door and window shutters open?" He answered, "I did not know that they were open." I am sure he was in bed with his shirt on.

Lavender, the Bow-street officer, stated, that he arrived on Monday about one o'clock; he found a pair of shoes by the side of the footman's bed, which he compared with the traces in the anti-room; and, as he thought, the impression corresponded with the shoes; the shoes were not fellows; a night-cap was found on the footman's bed, with some stains apparently bloody.

Foy, of Marlborough-street, compared the shoes, which he had found on Tuesday morning in a closet in the servant's hall, with the foot traces, and found they tallied: the shoes were odd; one common heeled, and worn at the toe; the other with a spring heel, as was the case with the shoes which Lavender found; there was blood both on the soles and the upper leather. He had shown them to Nicholson, who acknowledged them to be his, and said he believed one of them had slipt off in the room from which he fetched the sheets. Foy found them together in the cupboard. Nicholson had also acknowledged the night-cap, and said he supposed the bloody stains came from the blood on the sheets.

The groom was called again, and said he found the shoes that morning in the closet where he went to look for a stick to beat Mr. Bonar's coat; he saw they were bloody, and showed them to King, and then put them back again.

The poker was then produced: it was bent in the upper part; it was a ommon kitchen poker, about two feet four inches long.

The examination being concluded, his confession was read, which corroborated their testimony.

Declaration of Nicholson.

I, Philip Nicholson, to clear the innocence of others, and tell the truth of myself, I committed the murder.

Question by Mr. B.—Had you accomplices?—No, sir; I would tell you if I had.

I do not mean accomplices in the room, but others?—No, sir; I did not know it myself five minutes before.

Explain how it happened.—I was sleeping upon the form, and waked about three o'clock; I put the sheet around me, and took the poker from the hall grate, and a lighted candle in my hand from the hall. I entered the room; I looked about when I entered, and gave my mistress two blows: she never moved. I left her, and went round to master, and gave him two or three blows; and he said, come to bed, my love, and then he sprung from the bed and seized hold of me. I hit him, in the struggle, about the arms and legs; we struggled fifteen minutes or better; he was very near getting the better of me: I got him down by force, and left him groaning. I went down to wash my hands in the sink of the butler's pantry, and opened the house-door, and drawing-room windows.

What motive had you?—I had no bad intention. I did not know what provoked me to do it, more than you do.

You were heard to complain of going so much behind the carriage?—Yes; but I never thought of doing it from that.

Did you ever feel resentment for going so much behind the carriage?—No, sir; I never thought much about it.

Had you thought or talked of this murder when you were drinking with the groom the night before in the hall?—No: I never thought of it myself, or had any idea of it myself.

How long was it after you waked that you went up-stairs?—I jumped up; I was half undressed when sleeping upon the form; I undressed, and put the sheet about me.

Why did you put the sheet about you?—That they might not know me.

When did you drop the sheet?—In the struggle: I had it on when I gave the first blow.

By Mr. A. C.—Did Dale, the butler, know any thing about it?—No, sir

Did any of the maid servants know any thing about it?—Not a word.

Why did you go to Dale in London?—Nothing particular.

Was it your intention to take any thing away?—No, sir.

What was your intention?—Nothing particular: but when I went into the room, I saw my master and mistress asleep, and I gave her two blows.

Were you drunk when you went to bed?—No, sir, I had drank nothing but beer. I had not had a drop of spirits all day.

Had you at any former time thought of this murder?—No, sir. I never thought of such a thing in my life.

What did you do with your bloody things?—My shirt, neckcloth, and stockings, I put opposite the hall door, in the shrubbery, under some leaves, near the little gate. The breeches I kept on all day. When I waked from the form, I only took off my waistcoat.

What did you wipe your hands with?—With the sponge in the sink, which I left there.

What did you do with your shoes? Did you put them into the wood closet?—I might; but I do not remember.

What did you do with the rushlight?—I threw it into the coal closet.

Why did you take the rushlight?—It was dark in the house.

Why did you think it was three o'clock?—By the break of day.

Why did you open the shutters of your room?—To show me light.

Was it to see your clothes?—No, I had seen them by the rush-light in coming down-stairs.

Did you go to sleep after committing this act?—I went to bed, but could not sleep. I was awake when King entered the room.

In the presence of Almighty God, thinking I am on my death-bed, I hereby declare this to be my voluntary confession, to prevent innocent people being accused of this circumstance.

(Signed) PHILIP NICHOLSON.

Mr. Justice Heath then summed up the evidence: he said he never knew a case more clearly proved. The jury immediately returned a verdict of guilty.

Immediately after the sentence the prisoner put in a paper, and desired it to be read.

"I acknowledge, with the deepest contrition, the justice of the sentence unto death which has been just passed upon me. Yet, alas! what satisfaction can I make to the afflicted family of my master and mistress, whom, without any provocation, I so barbarously murdered?—I can make none beyond the declaration of my guilt, and horror of soul that I could perpetrate deeds so shocking to human nature and so agonizing to the feelings of that worthy family. I do most solemnly declare, and I desire this declaration to be taken as my dying words, that I alone was the base and cruel murderer of my master and mistress; that I had no accomplice; that no one knew or could possibly suspect that I intended to perpetrate those barbarities; that I myself had no intention of committing those horrid deeds, save for a short time, so short as scarcely to be computed before I actually committed them: that booty was not the motive of my fatal cruelties; I am sure the idea of plunder never presented itself to my mind; I can attribute those unnatural murders to no other cause than, at the time of their commission, a temporary fury from excessive drinking."

So anxious was colonel Bonar to get from the wretch his very dying words, as to whether he had either motive or accomplice, that a person was deputed to ascend the platform after the cord was round the prisoner's neck, and to ask him the following questions:—

Q. Now that you have not many moments to live is all that you have stated, namely, that you had no motive that you can tell of, nor had you any accomplice, true?—A. All that I have stated is true.

Then there is no creature living on earth who had any thing to do with the murder but yourself?—No, no one.

You had no accomplices?—None.

Had you any antipathy to either your master or mistress before you committed the horrid murder?—Clasping his hands together as well as his heavy irons would permit him, As God is in heaven, it was a momentary thought, as I have repeatedly declared before.

MR. WILLIAM COBBETT, FOR LIBEL,

IN THE COURT OF KING'S BENCH, JUNE 15TH, 1810.

This important case came on to be tried before the right hon. lord Ellenborough, at Westminster Hall, for a libel inserted in "Cobbett's Political Register," published in 1809. The pannel being called over, the following were sworn of the jury:

Thomas Rhodes, Hampstead road; John Davis, Southampton Place, ditto; James Ellis, Tottenham Court road; John Richards, Bayswater; Thomas

Marsham, Baker-street; Robert Heathecote, High-street, Mary-le-bone; John Maude, York Place, Mary-le-bone; George Baxter, Church Terrace; Pancras; Thomas Taylor, Red Lion Square; David Dean, 110 St. John-street; William Palmer, Upper-street, Islington; Joseph West (talesman) was about to be sworn; but,

Mr. Cobbett objected to him, and he was withdrawn without assigning any challenge, on the consent of the attorney-general.

Henry Faver (a talesman) was then sworn, and made up the twelve.

Mr. Cobbett objected to him, as being a foreigner, but declaring himself to be a British born subject, Mr. Cobbett apologized for having been misinformed The opening counsel having shortly stated the substance of the information,

The attorney-general then opened the case on behalf of the crown. In 1798, lord Castlereagh brought in his bill, by which the local militia might be called out for twenty-eight days, though they had only been called out twenty days. When the Cambridgeshire militia was called out, some disaffected persons, in the isle of Ely, caused them to mutiny, and it was found necessary to call in the military in the neighbourhood, and five of the ringleaders were sentenced to receive five hundred lashes, part only of which they received. The German legion, who were thus called in, is composed of a body of brave men, who, when Hanover was overrun, quitted their country, and entering into his majesty's service, have conducted themselves with bravery; and it was no disparagement to the British army to say, that the German legion have shared the glory with them. At the battle of Talavera, the German legion took three standards. No troops had ever conducted themselves in a more quiet, orderly, and sober manner, and he could not find that any complaint had been made against them. Mr. Wardle, in a motion in the house of commons, had proposed to disband the German legion, against which Mr. Huskisson offered sufficient reasons. A paragraph soon after appeared in the Courier which he would read.

"The mutiny amongst the local militia, which broke out at Ely, was *fortunately* suppressed on Wednesday, by the arrival of four squadrons of the German legion cavalry, from Bury, under the command of general Auckland. Five of the ringleaders were tried by a court-martial, and *sentenced to receive five hundred lashes each*, part of which *they received on Wednesday*, and a part was remitted. *A stoppage for their knapsacks* was the ground of complaint that excited this *mutinous* spirit, which occasioned the men to surround their officers, and demand what *they deemed* their arrears. The first division of the German legion halted yesterday at Newmarket on their return to Bury."—*Courier newspaper*, *Saturday*, *June* 24, 1809.

With this paragraph, as a text to a sermon, had Mr. Cobbett headed his paper.

The attorney-general then read the alleged libel.

LOCAL MILITIA AND GERMAN LEGION.

See the motto, English reader? See the motto, and then do pray recollect all that has been said about the way in which Bonaparte raises his soldiers. Well done, lord Castlereagh! This is just what it was thought your plan would produce. Well said, Mr. Huskisson! It really was not without reason that you dwelt, with so much earnestness, upon the great utility of the foreign troops, whom Mr. Wardle appeared to think of no utility at all. Poor gentleman! he little imagined how a great genius might find useful employment for such troops. He little imagined that they might be made the means of compelling Englishmen to submit to that sort of *discipline*, which is so conducive to the producing in them a disposition to defend the country, at the risk of their lives. Let Mr. Wardle look at my motto, and then say, whether the German soldiers are of *no use.*—*Five hundred lashes each!*—Ay, that is right! Flog them; flog them; flog them!—They deserve it, and a great deal more. They deserve a flogging at every meal time. "Lash them daily, lash

them daily." What, shall the rascals dare to *mutiny*, and that, too, when the German legion is so near at hand! Lash them, lash them, lash them! They deserve it. O, yes; they merit a double-tailed cat. Base dogs! What, mutiny for the sake of *the price of a knapsack!* Lash them! Flog them! Base rascals! Mutiny for the price of a goat's skin, and then, upon the appearance of the *German soldiers*, they take a flogging as quietly as so many trunks of trees! I do not know what sort of a place Ely is, but I really should like to know how the inhabitants looked one another in the face, while this scene was exhibiting in their town. I should like to have been able to see their faces, and to hear their observations to each other, at the time. This occurrence at home will, one would hope, teach *the loyal* a little caution in speaking of the means which Napoleon employs (or rather, which they say he employs) in order to get together and to discipline his conscripts. There is scarcely one of these loyal persons, who has not, at various times, cited the *hand-cuffings*, and other means of *force*, said to be used in drawing out the young men of France; there is scarcely one of the loyal, who has not cited these means as a proof, a complete proof, that the people of France *hate Napoleon and his government*, assist *with reluctance in his wars*, and would *fain see another revolution.* I hope, I say, that the loyal will, hereafter, be more cautious in drawing such conclusions, now that they see, that our "gallant defenders," not only require physical restraint, in certain cases, but even a little blood drawn from their backs, and that, too, with the aid and assistance of German troops. Yes, I hope the loyal will be a little more upon their guard, in drawing conclusions against Napoleon's popularity. At any rate, every time they do, in future, burst out in execration against the French, for suffering themselves to be "chained together, and forced, at the point of the bayonet, to do military duty," I shall just republish the passage which I have taken for a motto to the present sheet. I have heard of some other pretty little things of the sort; but I rather choose to take my instance (and a very complete one it is) from a public print, notoriously under the sway of the ministry.—

The attorney-general charged against him, that he imputed tyranny, cruelty, and injustice against the government of the country; that he held out to them that the punishment was undeserved, and held them up to public scorn, for having been base-minded enough to submit to punishment. Whatever the author had to allege, he would be patiently heard. He had considered the paper attentively, and could give it no character but that which he had described it to be.

Mr. Thomas Harvey called to prove the libel.

Mr. Cobbett declared himself to be the sole proprietor and author of the paper. He admitted, also, that the paper was purchased at Mr. Budd's.

Mr. Lukin called to prove that there were troops in the service called the German legion.

Mr. Cobbett admitted that fact.

The libel was then again read.

Mr. Cobbett now addressing the court, said, he should take up as little time as possible, doing to himself as much justice as he thought he deserved. In the whole world there was not a man who had been more calumniated than himself (Mr. Cobbett), and in the propagation of that calumny, he certainly did believe his majesty's ministers to be implicated. This was a question of intention, and, if they could believe him guilty of what was imputed to him, they must think him capable of any thing. Even in the very streets he was calumniated by placards. By one person who had a pension of £200 per annum, and which lord Sidmouth had struck off, a calumny was asserted at the foot of a caricature, of a most outrageous nature. [Here Mr. Cobbett read it.] On seeing this, in which it was asserted, that he had, in 1793, received £4000 for circulating a pamphlet against reform—feeling himself thus charged, he had written to lord Sidmouth, from whom he had received a most candid an-

swer. [Here Mr. Cobbett read a letter from lord Sidmouth, contradicting the aspersion.]

Mr. Cobbett then adverted to a former prosecution in the court of king's bench, in which he had been prosecuted for the publication of a libel written by a judge, who, however, now enjoyed a pension, and which, by the liberality of Mr. Perceval, was increased to £800 per annum. He then adverted to a prosecution against him for a libel in America, on the trial for which, it appeared that the Spanish minister had contrived a plot to poison his majesty's troops in America. Having suffered in his fortune in that cause so severely for his king and country, that very case had been ripped up, and brought against him on a former occasion by the attorney-general. He would now endeavour to refute the charge that had been specifically brought against him. The charge was, that he maliciously intended to excite disaffection, &c. The information stated him to do that, being an ill-disposed seditious person, and in hatred of his majesty and his government—that is, he meant to do injury to his country. But if they found him guilty, it must be on the principle that such was his intention. He begged their particular attention to this; for in the intention consisted the whole of this case. The attorney-general knew the whole paragraph to be satirical—a criticism on lord Castlereagh's bill, the mischief from which he had been very forward in anticipating. But, oh! says lord Castlereagh, you cannot mean me, you must mean the king—"speaking of flogging, it cannot mean me." Why, bye and bye, if a minister were pelted in the street with mud, we should be told the mud was thrown at the king, and not at the minister. There was nothing in the paper to affront the king. If the information had said, he had intended to attack lord Castlereagh, he should admit the fact. The attorney-general had said, on a former occasion, that he did not meddle with writers for attacking ministers,—this was a mere attack upon ministers, and everybody knew it. The forced construction on his words was obvious; he was ridiculing the measure, and in saying, "flog them," he meant nothing more than a ridicule of lord Castlereagh's measure. Were we never to complain of soldiers being ill-treated? If we were to see a soldier flogged to death, was no tongue, no pen, to move in his defence? The object was, to cause the folly of the measure to be done away. A young fellow with a smock frock, sentenced to five hundred lashes for mutiny; but this was not a mutiny; a squabble about a marching guinea: he had told lord Castlereagh, that by that measure he had just made these men soldiers enough to dislike labour, and yet not soldiers enough to cease to be labourers. He would read what lord Grenville had said.

Lord Ellenborough interfered, he thought the reference to parliament improper.

Mr. Cobbett continued.—It was said by Mr. Whitbread, that the treatment of soldiers in the duke of Cumberland's regiment was as severe as ever, and even picketting in that regiment, although the practice had been discontinued in every other. But did Mr. Whitbread mean, by that, to bring his majesty and his government into contempt?

[The attorney-general here interfered, and lord Ellenborough said, that the allusion to what had passed in parliament had no proper reference to the defendant's defence.]

Mr. Cobbett resumed.—The man who meant to excite disaffection in the army, would not have taken such open measures as had been imputed; he would have proceeded more secretly and insidiously. The employment of the German troops was that circumstance which had excited his indignation; to see those foreigners brought to superintend, or, perhaps, inflict the punishment on the misled young men, who had been concerned in the squabble at Ely, excited his indignation more than the punishment itself. Our ancestors had always disliked foreign troops; almost every body disliked them, and surely that dislike could not be construed into any thing jacobinical. In

1628, the commons had remonstrated with Charles I. against the introduction of German horse. [Here Mr. Cobbett read the passage.] Those sentiments, contained in that protest, were his (Mr. C.'s) sentiments, and the conduct of the German troops, within his own observation, had strengthened that opinion. [Mr. Cobbett then read another passage, from a debate on the appointment of foreign officers, in the reign of William III.]

There were no fewer than four or five German generals, who commanded even English generals. Since the year 1786, this force had increased from twenty-four to thirty-four thousand men. We had thirty-four thousand one hundred and twenty-four foreigners, four generals, four lieutenant-generals, and nineteen colonels. There was also a Frenchman, of the name of Montalambert, on the staff in Sussex, and two Frenchmen at a dockyard in Wales; that was directly against law. Both the acts of parliaments by which German troops are allowed to be in England, were, in truth, merely acts of indemnity, for the declaration of rights, and other statutes had declared the holding places of trust, either civil or military, illegal. There were no less than seven hundred and seventy-three German officers in our service, and including foreigners of other nations, there were fifteen hundred and nine foreign officers in our pay. Of the number of foreign troops in our service, not more than four or five thousand men had been enlisted in this country; many of the thirty-four thousand had been even enlisted in Spain; taken out of prison there, having been in Dupont's army! Why, then, were these men brought to superintend the lashing the backs of his own countrymen? It had been asserted that the German troops had behaved bravely at Talavera; that he knew to be the contrary of the fact; he had a letter from an officer of horse artillery, lieutenant Frederick Reed, to an officer high in government, in the office of ordnance, in which it was asserted, that from the cowardice of the German legion, some English regiments would have been cut off, if the 29th had not come to their assistance. This was confirmed to him by several officers who had slept at his house at Botley, after their arrival in England. A German officer, of the name of Landreth, had, indeed, seized a standard, and endeavoured to rally his countrymen, but it was found impossible. With respect to their conduct in quarters, he was himself able to form some estimate, as he lived in the neighbourhood where they were quartered. But he would first read a document, which would show what had been their conduct even in Germany. [Mr. Cobbett then read a letter from the archduke Charles, to the duke of Brunswick Oels, reprobating the excesses committed by his corps in Saxony.] These were the very men now in our pay. On their landing in England, they were quartered in the isle of Wight, where they committed every species of brutal excess; from whence they were sent to Ireland, on account of their enormities. They had even been accused of committing murders. A landlord, who refused them liquor, had been attacked by them with swords, in his own bar, in the most ferocious manner. And the terror of the inhabitants of Newport exceeded any thing that had been seen in this country. The attorney-general had, therefore, been grossly misinformed on the subject of their bravery and good conduct. Among those men, there might be good men, but they could not have the feelings of Englishmen. At Guadaloupe, the 60th regiment, we were told, had run away. The depot of that regiment was at Lymington, and was filled up principally with foreigners, and vagabonds taken from our jails, whence they were shipped off to the 60th regiment, in the West Indies, where they had an opportunity of showing their bravery—by running away. Under these impressions he had written the article in question, and he trusted the jury would see that it could arise from no evil intention, but from the irritation of his feelings alone. Every advantage he possessed was prospective; all his prospects, his property, his publication, even the very trees he planted, all depended on the continuance of his majesty's government; and that, therefore, it was impossible that any man could impute to him an intention so

stupid, so absurd, so senseless, as to wish for the overthrow of that government under which he lived.

The attorney-general thought Mr. Cobbett would have better consulted his interest, if, instead of the defence he had made, he had admitted, as the other defendants had, that he had published a libel (by letting judgment go by default), instead of adding to it by the scandal he had uttered in his defence. He then accounted for the delay, by the distance of Mr. Cobbett's residence from town. Mr. Cobbett had urged, as a reason why he should not be prosecuted, that others had published worse libels than this, for which they had not been prosecuted. The wickedness of him who composes, and of him who prints, a libel, certainly bore no comparison; and, except for deterring others, there was no reason for prosecuting a printer, unless it were for the purpose of getting at the author. Although men, who lend themselves to others, were, in such cases, guilty of a serious crime, there was, he repeated, no comparison between the printer and the author. It would be of no consequence to any one, of what opinion Mr. Cobbett might be; but he (the attorney-general) would ask the jury had Mr. Cobbett merely offered an opinion on the subject? He had introduced his opinion by stating, that the acts authorizing his majesty to raise foreign troops, were mere acts of indemnity; but, in his defence, had contented himself with stating his own conduct and opinions, and concluded his argument by assuring the court and jury, that the libel was merely a mode of writing he had adopted, for pointing out the errors of lord Castlereagh! but he would ask the jury, was there any thing like discussion in the paper? It must be remembered, that this paper appeared after a legislative measure had been passed, by which a military force had been embodied, and after a mutiny had taken place, for which punishment had been awarded, although part of that punishment had been remitted; the object, then, of Mr. Cobbett must have been again to light up the flame of discord, by holding out that the German legion was brought for the purpose of flogging our soldiers, who were forced into the army by measures more tyrannical than those of Bonaparte. But his lordship would tell them, whether the object of this paper was not to create general discontent, and defame and villify those who had legally entered into the service of this country. [The attorney-general then read several of the passages from the libel, on each of which he animadverted.] He asked, what could Mr. Cobbett mean but to reproach and taunt the local militia, for having submitted to be flogged? Did he not mean to ridicule them for being so dastardly? Surely he did, and meant also to excite the people of Ely to rescue the soldiers from the punishment of the law. These men, who were punished, had surrounded and beset their officers, and being guilty of mutiny, were sentenced to a deserved punishment. But this mutiny Mr. Cobbett had treated very slightly, and his indignation had been powerfully excited, that in consequence of this trivial offence, this squabble, the German legion should have been sent for to flog them. But that was not the fact; the German legion had been sent for to suppress, in the first instance, a most dangerous mutiny, and eventually to oblige the mutineers to submit to the decision of the law, by which they were awarded punishment. Mr. Cobbett did not even allow it to be a mutiny, but merely a little disorderly conduct; a squabble about the marching guinea. The question before the court and jury was not on the merits or demerits of the German legion; the question for the jury to decide was, whether that mischievous paper which had been read, had it not in view to hold up those brave men to obloquy and contempt, and to excite in the minds of the military disobedience and resistance, and in those of the people at large of this country, a disposition to discontent and disaffection.

Lord Ellenborough then proceeded with a recapitulation of the material parts of the alleged libel, in which he observed, that the question for the jury to consider, was, whether the mischief ascribed to this publication was fairly ascribable to it, and whether it was of the noxious tendency imputed to it

If that publication imported mischief, the jury was bound to conceive that mischief was intended. This was the correct and legal rule as to intention. The publication before the jury was not, it must be seen, one random expression, liable to be indiscreetly written in a hurry, but a continuity of terms, and it was their province to decide, whether such a publication had, or could have any but one purpose. (Here the learned lord read a passage from the libel, referring to the contrast of Mr. Wardle's opinion with that of Mr. Huskisson, with respect to the employment of foreign troops, and the use they were meant for in this country, namely, for the infliction of punishment upon the British soldiers, and pointed the attention of the jury to this passage, if any doubts existed in their mind.) If any thing were wanted by way of explanation, in order to enable them to collect the defendant's real meaning in this passage, it was only necessary to refer to the following expression of his own, towards the close of his defence,—"I should not have said so much of these Germans, if they had not been brought into this country to flog the backs of my own countrymen." But could the purpose of the defendant be deemed, for a moment, ambiguous. The repeating, so frequently and emphatically, the words "flog them, flog them;" could he mean it as an advice to the officers, to urge a repetition of the punishment, or as an exhortation to the men to induce them to submit to it? No; the meaning was clearly this, that if these militia men endured punishment,—that if they suffered themselves to be punished with arms in their hands, with which they might make resistance, they richly deserved that punishment, however severe it might be. Now, as to the defendant's address to the inhabitants of Ely, did not this address appear to imply an imputation or reproach upon the inhabitants, for having passively witnessed the punishments alluded to? What else could it mean? The defendant had not, he observed, touched upon this point, in the course of his defence, but he had endeavoured to defend the whole article, by stating, that it was merely a composition of bad taste—that it was only defective in style. Was this, however, the only fault attributable to it? Was this the only inference to be drawn from it? Did it not betray a bad moral and political feeling; and was not its evident purpose to excite the soldiery against each other, and to excite the people against ministers—against the whole government and constitution, under whose laws and orders the punishments referred to had been inflicted? "According to law," said his lordship, "it is my duty to state to you my opinion, upon any case submitted for your consideration. When I have doubts, I never decline to communicate those doubts, and when I differ in opinion from the prosecution, I have not hesitated to state that difference; but, upon this occasion, I must say, that I feel no such doubt or difference, it being the confident certainty and full conviction of my mind, that this is a most seditious libel."

The jury, after consulting for about two minutes, returned a verdict of *Guilty*.

On the fifth of July following, the attorney-general moved for the judgment of the court on Mr. Cobbett, and Messrs. Hansard, Bagshaw, and Budd, as printer, and publishers and vendors, of the libel, when affidavits were put in on the part of the printer and publishers, stating, that they printed and sold the work containing the libel, in the ordinary course of their business. On July 9th, they were again brought up, when Mr. Justice Grose, addressing himself to Mr. Cobbett, informed him that he stood there to receive judgment for having written, and given to the world, a very seditious and mischievous libel, tending to produce mutiny among our soldiers, by instilling into their minds, that they were treated with unnecessary and unbecoming severity. The libel had been submitted to the consideration of a jury of his fellow subjects, who had expressed their opinion of its tendency by pronouncing a verdict of guilty. A publication more nearly allied to high-treason he had never witnessed, and the consequences which might have been produced by so inflammatory and dangerous a production could not be

contemplated without horror. That it was the intention of the person at the bar, to whom he now addressed himself, that it should produce such consequences, he should not say, but such must strike every one as their obvious tendency. In mitigation, he had offered nothing. The obvious inference from which was, that he had nothing in mitigation which he could offer. Considering the mischievous nature of the publication, the consequences which were likely to have resulted from it, and the peculiar period of time at which the publication had been brought forward, the sentence of the court upon him, William Cobbett, was,

"That he do pay to the king a fine of one thousand pounds—be imprisoned in the jail of Newgate for the space of two years; that he do then enter into recognizances to keep the peace for seven years, himself in three thousand pounds, and two sureties in one thousand pounds each, and that he be further imprisoned till such fine be paid and sureties found."

Addressing himself to the other three defendants, the learned judge observed, that their guilt was greatly less than that of the author and principal in the offence. They had also evinced their sorrow for the crime they had committed, by allowing judgment to go against them by default. Of these three, the offence of Hansard was the greatest, and though the guilt of them all was infinitely less than that of Mr. Cobbett, their guilt was not done away by the aggravated nature of his offence. It was no answer for them to say, that they did not know the contents of the publication. It is the bounden duty of persons concerned in publications, to know that they are responsible for the contents of these publications. In the circumstances of each particular case, the sentence of the court was,

"That the defendant, T. C. Hansard, be committed to the custody of the marshall of the Marshalsea of that court, for the space of three calendar months, and at the expiration of that time, do enter into recognizances to keep the peace for three years, himself in four hundred pounds, and two sureties in two hundred pounds."

And that the other two defendants, Richard Bagshaw and John Budd,

"Be committed to the custody of the marshall of the Marshalsea of that court, for the space of two calendar months, and be then discharged."

JOHN BELLINGHAM, ESQ.

FOR THE MURDER OF THE RIGHT HON. SPENCER PERCEVAL, CHANCELLOR OF THE EXCHEQUER, ETC., IN THE LOBBY OF THE HOUSE OF COMMONS, MAY 11, 1811.

On Monday, May the 11th, as Mr. Perceval was entering the lobby of the house of commons, at a quarter past five in the evening, he was shot with a pistol fired at him as he entered the door. He was in company with lord F. Osborne, and immediately on receiving the ball, which entered the left breast, he staggered, and fell at the feet of Mr. W. Smith, who was standing near the second pillar. The only words he uttered were, "Oh! I am murdered!" and the latter was inarticulate, the sound dying between his lips. He was instantly taken up by Mr. Smith, who did not recognise him until he had examined his face. The report of the pistol immediately drew great numbers to the spot, who assisted Mr. Smith in conveying the body of Mr. Perceval into the speaker's apartments; but all signs of life had departed.

Mr. Perceval's body was placed upon a bed, when Mr. Lynn, of Great George-street, who had been sent for, arrived, but too late even to witness the last symptoms of expiring existence. He found that the ball, which was of an unusually large size, had penetrated the heart near its centre, and had

passed completely through it. From thence the body was removed to the speaker's drawing-room by Mr. Lynn and several members, where it was laid on a sofa.

The horror and dismay occasioned by the assassination of Mr. Perceval, prevented any attention from being paid to the perpetrator, and it was not until he was raised from the floor, that a person exclaimed, "Where is the rascal that fired?" when a person of the name of Bellingham, who had been unobserved, stepped up to him, and coolly replied, "I am the unfortunate man." He did not make any attempt to escape, though he had thrown away the pistol by which he had perpetrated the deed, but resigned himself quietly into the hands of some of the by-standers. They placed him upon a bench near the fire-place, where they detained him; the doors were closed, and the egress of all persons prevented. When the assassin was interrogated as to his motive for this dreadful act, he replied, "My name is Bellingham; it is a private injury; I know what I have done; *it was a denial of justice on the part of government.*"

At this time the prisoner was not in legal custody, but was surrounded by several members, who insisted that he should be taken into the body of the house. The criminal was, however, previously searched, to which he made no resistance, and upon his person were found a steel pistol, loaded, about seven inches in length (the fellow to that with which he had effected his fatal purpose, which had been secured), with a short screw barrel, and a bundle of papers folded like letters. Two messengers then conveyed the prisoner to the bar of the house of commons, where the utmost confusion and anxiety prevailed. The speaker had quitted the committee on the orders in council, but on hearing the afflicting intelligence, he returned, and resumed his seat. Order having been restored, general Gascoyne said, in an audible voice, "I think I know the villain," and walking up to the assassin, and looking in his face, inquired, "Is not your name Bellingham?" He returned no answer, but by shaking his head; and stood afterwards motionless, and apparently composed, resting his hands upon the bar, and looking directly towards the chair.

Bellingham was conducted, without the slightest resistance, to a large room beyond the termination of the upper lobby, where the magistrate (Mr. Watson, sergeant-at-arms of the house of lords), who had been sent for, attended; Mr. Alderman Combe, Mr. Angelo Taylor, and other magistrates, assisted at the examination. The witnesses proved these facts. It appeared that a person was standing between the deceased and the prisoner at the time the pistol was fired, and that the latter, to effect his diabolical design, was obliged to raise his hand over the shoulder of the intervening individual, and the ball, consequently, took a slanting direction, entering rather high upon the breastbone. The flash of the pistol was seen by many, but the perpetration of the crime was so instantaneous, that its prevention was impossible. The assassin had been often seen in the gallery of the house, and it appeared that he had the previous day been watching the entrance of every member into the lobby with great attention, although this circumstance excited no peculiar notice. General Gascoyne, the member for Liverpool, deposed, before Mr. Watson and the other magistrates, that he had received many petitions and memorials from him, respecting some claims upon government, which he sought to be allowed. Those demands, it was stated, originated in services alleged to be performed by the criminal in Russia, for which, he complained, he had obtained no remuneration. It seemed, likewise, that numerous similar ineffectual representations had been made to the unfortunate victim of his revenge, and to the speaker. General Tarleton also gave evidence, as well as many others who witnessed the perpetration of the sanguinary deed, and those who first seized upon the prisoner's person.

During the whole of the examination, Bellingham maintained the utmost composure. He said he had, for more than a fortnight, watched for a favourable opportunity of effecting his purpose; that he had implored for justice in

vain; that he had made application to every person likely to procure him redress; and that he had been, at length, driven to despair, *by being told at the public offices, that he might do his worst;* "*I have obeyed them,*" said he, "*I have done my worst, and I rejoice in my deed.*"

Mrs. Perceval was on a visit to the hon. Mrs. Ryder, in Great George-street, Westminster, when the sad catastrophe happened, and was apprized of it on her return to Downing-street. Mrs. Perceval and her children, eleven in number, were plunged into inexpressible grief, as was lord Arden, his brother.

The environs of Parliament-street and Palace-yard were rendered almost impassable by the pressure of the crowd, notwithstanding the vigilance of the police officers.

The body of Mr. Perceval was removed from the speaker's house, during Monday night, to his own in Downing-street; and the next morning, at eleven o'clock, a most respectable jury was summoned to attend A. Gell, esq., coroner for Westminster, at the sign of the Rose and Crown, in Downing-street. After taking a view of the body, and examining witnesses, they brought in a verdict of *wilful murder* against John Bellingham, alias Ballingham.

This culprit was a tall, raw-boned man, and appeared about forty-two years of age, with a thin, long visage, aquiline nose, and short brown hair. After committing the horrid deed, his principal anxiety seemed to be to persuade the spectators that the act was justifiable from the provocation he had received. He was stated to be a native of St. Neott's, in Huntingdonshire.

His last application to government on his affairs was made on Monday morning, when he received a repulsive answer, which was supposed to have confirmed him in that dark and bloody purpose which he had carried into effect.

Mr. Bellingham ate a hearty dinner on Tuesday, soon after two o'clock, requesting to dine at that hour in future; and, after passing the rest of the day in a tranquil manner, he retired to bed at twelve, and slept till seven next morning, being attended by two persons during the night. He breakfasted about nine o'clock, and appeared quite composed, talking with apparent indifference about his trial, and repeating his former statements. On the same day, the following letter was sent by Mr. Bellingham, from his room in Newgate, to Mrs. Roberts, No. 9, New Milman-street, the lady at whose house he lodged.

Tuesday morning, Old Bailey.

Dear Madam,—Yesterday midnight, I was escorted to this neighbourhood by a noble troop of light horse, and delivered into the care of Mr. Newman (by Mr. Taylor the magistrate and M. P.), as a state prisoner of the first class. For eight years I have never found my mind so tranquil as since this melancholy, but necessary catastrophe, as the merits or demerits of my peculiar case must be regularly unfolded in a criminal court of justice, to ascertain the guilty party, by a jury of my country. I have to request the favour of you to send me three or four shirts, some cravats, handkerchiefs, night-caps, stockings, &c., out of my drawers, together with comb, soap, tooth-brush, with any other trifle that presents itself, which you think I may have occasion for, and enclose them in my leather trunk, and the key please to send sealed, per bearer: also my great-coat, flannel gown, and black waistcoat, which will much oblige, dear madam, your very obedient servant,

JOHN BELLINGHAM.

To the above please to add the prayer-book.

To Mrs. Roberts.

On Wednesday morning, the sheriffs, accompanied by several other gentlemen, visited Mr. Bellingham in Newgate, and found him in nearly the same state of mind as on Tuesday; but on entering into conversation with him re-

specting the melancholy subject of Mr. Perceval's assassination, he became less tranquil, and persisted in vindicating the act, and said, when his trial came before a jury of his countrymen, it would then be determined how far a minister was justified in refusing justice to an injured individual. Had he shot Mr. Perceval from personal malice, he should have been worse than a brute. It was the *minister*, and not the *man*, that had led him to commit the deed. He further declared, that had he a million of lives to lose, they would not prevent him from pursuing his object in the same way. Mr. Harmer, his solicitor, had been with him for two hours, to receive instructions preparatory to his trial, and he expressed a wish to retain Mr. Brougham and Mr. Alley as counsel.

On Thursday, the grand jury, at Hick's Hall, found a true bill against Bellingham, for the wilful murder of the right honourable Spencer Perceval. It appeared that, with respect to the manner in which Bellingham passed the previous part of the day on which he committed the murder, he went with a lady to the European Museum, where he was detained till past four o'clock. He parted from her at the extremity of Sydney's Alley, and went down immediately to the house of commons, without having dined, and with his pistols loaded. He was so anxious not to be disappointed by the failure of the weapon, that, after he had bought his pistols, for which he gave four guineas, he went to Primrose Hill, to try how they would go off, and when he had ascertained their efficacy, loaded them for his purpose.

His trial came on at the Old Bailey, Friday, May 15th. At half-past ten, the judges, lord chief-justice Mansfield, baron Graham, and sir Nash Grose, entered the court. The prisoner was immediately ordered to the bar. He advanced slowly, with the utmost composure of countenance, and bowed to the court. He was dressed in a brown coat, striped waistcoat, and dark small-clothes. The prisoner pleaded not guilty, and the facts, already stated, having been proved by several respectable witnesses, he was called upon for his defence?

The prisoner asked whether his counsel had nothing to urge in his defence.

Mr. Alley informed him that his counsel were not entitled to speak.

The prisoner said, that the documents and papers necessary to his defence had been taken out of his pocket, and had not since been restored to him. The papers were then handed to the prisoner, who proceeded to arrange and examine them. The prisoner, who had been sitting till now, rose, and bowing respectfully to the court and jury, went into his defence, in a firm tone of voice, and without any appearance of embarrassment, or feeling for the awful situation in which he was placed. He spoke nearly to the following effect:—

I feel great obligation to the attorney-general for the objection which he has made to the plea of insanity. I think it is far more fortunate that such a plea as that should have been unfounded, than it should have existed in fact. I am obliged to my counsel, however, for having thus endeavoured to consult my interest, as I am convinced the attempt has arisen from the kindest motives. That I am, or have been insane, is a circumstance of which I am not apprized, except in the single instance of my having been confined in Russia—how far that may be considered as affecting my present situation, it is not for me to determine. This is the first time that I have ever spoken in public in *this way*. I feel my own incompetency, but I trust you will attend to the substance, rather than to the manner, of my investigating the truth of an affair which has occasioned my presence at this bar. I beg to assure you, that the crime which I have committed, has arisen from compulsion, rather than from any hostility to the man, whom it has been my fate to destroy. Considering the amiable character, and the universally admitted virtues of Mr. Perceval, I feel, if I could murder him in a cool and unjustifiable manner, I should not deserve to live another moment in this world. Conscious, however, that I shall be able to justify every thing which I have done, I feel

some degree of confidence in meeting the storm which assails me, and shall now proceed to unfold a catalogue of circumstances, which, while they harrow up my own soul, will, I am sure, tend to the extenuation of my conduct in this honourable court. This, as has already been candidly stated by the attorney-general, is the first instance in which any, the slightest, imputation has been cast upon my moral character. Until this fatal catastrophe, which no one can more heartily regret than I do, not excepting even the family of Mr. Perceval himself, I have stood alike pure in the minds of those who have known me, and in the judgment of my own heart. I hope I see this affair in the true light. For eight years, gentlemen of the jury, have I been exposed to all the miseries which it is possible for human nature to endure. Driven almost to despair, I sought for redress in vain. For this affair, I had the *carte blanche* of government, as I will prove by the most incontestable evidence, namely, the writing of the secretary of state himself. I come before you under peculiar disadvantages. Many of my most material papers are now at Liverpool, for which I have written, but have been called upon my trial before it was possible to obtain an answer to my letter. Without witnesses, therefore, and in the absence of many papers necessary to my justification, I am sure you will admit I have just grounds for claiming some indulgence. I must state, that after my return from my voyage to Archangel, I transmitted to his royal highness the prince-regent, through my solicitor, Mr. Windle, a petition; and in consequence of receiving no reply, I came to London, to see the result. Surprised at the delay, and conceiving that the interests of my country were at stake, I considered this step as essential, as well for the assertion of my own right, as for the vindication of the national honour. I waited upon colonel M'Mahon, who stated that my petition had been received, but, owing to some accident, had been mislaid. Under these circumstances, I drew out another account of the particulars of the Russian affair, and this may be considered as the commencement of that train of events, which led to the afflicting and unhappy fate of Mr. Perceval. This petition I shall now beg leave to read. (*Here the prisoner read a long petition.*)

In the course of narrating these hardships, he took occasion to explain several points, and adverted with great feeling to the unhappy situation in which he was placed, from the circumstance of his having been but lately married to his wife, then about twenty years of age, with an infant at her breast, and who had been waiting for him at St. Petersburgh, in order that she might accompany him to England—a prey to all those anxieties which the unexpected and cruel incarceration of her husband, without any just grounds, was calculated to excite. (*In saying this, the prisoner seemed much affected.*) He also described his feelings at a subsequent period, when his wife, from an anxiety to reach her native country (England) when in a state of pregnancy, and looking to the improbability of his liberation, was obliged to quit Petersburgh unprotected, and undertake the voyage at the peril of her life, while lord L. Gower and sir S. Shairpe suffered him to remain in a situation worse than death. "My God! my God!" he exclaimed, "what heart could bear such excruciating tortures, without bursting with indignation at conduct so diametrically opposite to justice and to humanity. I appeal to you, gentlemen of the jury, as men—I appeal to you as Christians—whether, under such circumstances of persecution, it was possible for me to regard the actions of the ambassador and consul of my own country, with any other feelings but those of detestation and horror. In using language thus strong, I feel that I commit an error; yet does my heart tell me, that men who lent themselves thus to bolster up the basest acts of persecution, there are no observations, however strong, which the strict justice of the case would not excuse my using towards them. Had I been so fortunate as to have met lord Leveson Gower, instead of that truly amiable and highly lamented individual, Mr. Perceval, he is the man who should have received the ball!!!"

After reading several other papers, he thus proceeded:—I will now only mention a few observations by way of defence. You have before you all the particulars of this melancholy transaction. Believe me, gentlemen, the rashness of which I have been guilty, has not been dictated by any personal animosity to Mr. Perceval, rather than injure whom, from private or malicious motives, I would suffer my limbs to be cut from my body. (*Here the prisoner seemed again much agitated.*)

If, whenever I am called before the tribunal of God, I can appear with as clear a conscience as I now possess, in regard to the alleged charge of the wilful murder of the unfortunate gentleman, the investigation of whose death has occupied your attention, it would be happy for me, as essentially securing to me eternal salvation,—but that is impossible. That my arm has been the means of his melancholy and lamented exit, I am ready to allow. But to constitute murder, it must clearly and absolutely be proved to have arisen from *malice prepense, and with a malicious design*, as I have no doubt the learned judge will shortly lay down, in explaining the law on the subject. If such is the case, I am guilty; if not, I look forward with confidence to your acquittal.

That the contrary is the case, has been most clearly and irrefragably proved: no doubt can rest upon your minds, as my uniform and undeviating object has been, an endeavour to obtain justice, according to law, for a series of the most long-continued and unmerited sufferings that were ever submitted to a court of law, without having been guilty of any other crime than an appeal for redress for a most flagrant injury offered to my sovereign and my country, wherein my liberty and property have fallen a sacrifice for the continued period of eight years, to the total ruin of myself and family (with authenticated documents of the truth of the allegations), merely because it was Mr. Grant's pleasure that justice should not be granted, sheltering himself with the idea of there being no alternative remaining, as my petition to parliament for redress could not be brought forward (as having a pecuniary tendency) without the sanction of his majesty's ministers, and that he was determined to oppose, by trampling both on law and right.

Gentlemen, where a man has so strong and serious a criminal case to bring forward as mine has been, the nature of which was purely national, it is the bounden duty of government to attend to it, for justice is a matter of right, and not of favour. And when a minister is so unprincipled and presumptuous, at any time, but especially in a case of such urgent necessity, as to set himself above both the sovereign and the laws, as has been the case with Mr. Perceval, he must do it at his personal risk; for, by the law, he cannot be protected.

Gentlemen, if this is not fact, the mere will of a minister would be law; it would be this thing to-day, and the other to-morrow, as either interest or caprice might dictate. What would become of our liberties? where would be the purity and the impartiality of the justice we so much boast of? To government's non-attendance to the dictates of justice, is solely to be attributed the melancholy catastrophe of the unfortunate gentleman, as any malicious intention to his injury was the most remote from my heart. Justice, and justice only, was my object, which government uniformly objected to grant; and the distress it reduced me to, drove me to despair; in consequence, and purely for the purpose of having the singular affair legally investigated, I gave notice at the public office, Bow-street, requesting the magistrates to acquaint his majesty's ministers, that if they persisted in refusing justice, or even to permit me to bring my just petition into parliament for redress, I should be under *the imperious necessity of executing justice myself*, solely for the purpose of ascertaining, through a criminal court, whether his majesty's ministers have the power to refuse justice to a well authenticated and irrefutable act of oppression, committed by the consul and ambassador abroad, whereby my sovereign's and country's honour were materially tarnished, by

my person endeavouring to be made the stalking-horse of justification to one of the greatest insults that could be offered to the crown.

But, in order to avoid so reluctant and abhorrent an alternative, I have hoped to be allowed to bring my petition to the house of commons, or that they would do what was right and proper themselves.

On my return home from Russia, I brought most serious charges to the privy council, both against sir Stephen Shairpe and lord G. L. Gower, when the affair was determined to be purely national, and, consequently, it was the duty of his majesty's ministers to arraign it, by acting on the resolution of the council. Suppose, for instance, the charge I brought could have been proved to be erroneous, should I not have been called to severe account for my conduct; but, being true, ought I not to have been redressed?

After the notice from the police to government, Mr. Ryder, conscious of the truth and cruelty of the case, transmitted the affair to the treasury, referring me there for a final result. After a delay of some weeks, the treasury came to the resolution of sending the affair back to the secretary of state's office; at the same time, I was told by a Mr. Hill, he thought it would be useless my making further application to government, and that I was at full liberty to take such measures as I thought proper for redress.

Mr. Beckett, the under-secretary of state, confirmed the same, adding, that Mr. Perceval had been consulted, and could not allow any petition to come forward. Thus, by a direct refusal of justice, with a *carte blanche* to act in whatever manner I thought proper, were the sole causes of the fatal catastrophe; and they have now to reflect on their own impure conduct for what has happened.

It is a melancholy fact, that the warping of justice, including all the various ramifications in which it operates, occasions more misery in the world, in a moral sense, than all the acts of God in a physical one, with which he punishes mankind for their transgressions; a confirmation of which, the single but strong instance before you is one remarkable proof.

If a poor unfortunate man stops another upon the highway, and robs him of but a few shillings, he may be called upon to forfeit his life. But I have been robbed of my liberty for years, ill-treated beyond precedent, torn from my wife and family, bereaved of all my property to make good the consequences of such irregularities; deprived and bereaved of every thing that makes life valuable, and then called upon to forfeit it, because Mr. Perceval has been pleased to patronize iniquity that ought to have been punished, for the sake of a vote or two in the house of commons, with, perhaps, a similar good turn elsewhere.

Is there, gentlemen, any comparison between the enormity of these two offenders? No more than a mite to a mountain. Yet the one is carried to the gallows, while the other stalks in security, fancying himself beyond the reach of law or justice: the most honest man suffers, while the other goes forward in triumph to new and more extended enormities.

We have had a recent and striking instance of some unfortunate men, who have been called upon to pay their lives as the forfeit of their allegiance, in endeavouring to mitigate the rigours of a prison. (Alluding to some recent trials for high-treason at Horsemonger-lane.) But, gentlemen, where is the proportion between the crimes for which they suffered, and what government has been guilty of in withholding its protection from me? Even in a crown case, after years of sufferings, I have been called upon to sacrifice all my property, and the welfare of my family, to bolster up the iniquities of the crown, and then am prosecuted for my life, because I have taken the only possible alternative to bring the affair to a public investigation, for the purpose of being enabled to return to the bosom of my family with some degree of comfort and honour. Every man within the sound of my voice must feel for my situation; but by you, gentlemen of the jury, it must be felt in a peculiar degree, who are husbands and fathers, and who can fancy yourselves in my

situation. I trust that this serious lesson will operate as a warning to all future ministers, and lead them to do the thing that is right, as an unerring rule of conduct; for, if the superior classes were more correct in their proceedings, the extensive ramifications of evil would, in a great measure, be hemmed up; and a notable proof of the fact is, that this court would never have been troubled with the case now before it, had their conduct been guided by these principles.

I have now occupied the attention of the court for a period much longer than I intended; yet I trust they will consider the awfulness of my situation to be a sufficient ground for a trespass, which, under other circumstances, would be inexcusable. Sooner than suffer what I have suffered for the last eight years, however, I should consider five hundred deaths, if it were possible for human nature to endure them, a fate far more preferable. Lost so long to all the endearments of my family, bereaved of all the blessings of life, and deprived of its greatest sweet, liberty, as the weary traveller who has long been pelted by the pitiless storm welcomes the much desired inn, I shall receive death as the relief of all my sorrows. I shall not occupy your attention longer; but relying on the justice of God, and submitting myself to the dictates of your conscience, I submit to the *fiat* of my fate, firmly anticipating an acquittal from a charge so abhorrent to every feeling of my soul.—

Here the prisoner bowed, and his counsel immediately proceeded to call witnesses, in order to prove a state of insanity.

The lord chief-justice, in summing up the evidence, pointed out those species of insanity which would excuse murder, or any other crime; but a person capable of distinguishing right from wrong could not be excused.

The jury, after a quarter of an hour, brought in a verdict of *Guilty*.

The impressive and awful sentence of the law was heard by him without any apparent emotion.

On Monday morning, May 18th, a few minutes before eight, this wretched man appeared on the scaffold, perfectly resigned to his fate, and, in about two minutes, was launched into eternity.

MARY STONE,

FOR CHILD MURDER,—PREFERRED BY A SISTER, AT THE SURREY ASSIZES, 1818.

MARY STONE, aged 29, was charged on the oath of her sister, Harriet Hampton, of having wilfully murdered a female child, of which she (the prisoner) was the mother, in the month of September, 1816, at Richmond.

The prosecutrix, Mrs. Harriet Hampton, a fine young woman, about nineteen or twenty years of age, was then put into the witness-box. On casting her eyes towards where the prisoner sat, she burst into tears, and exclaimed, with great apparent anguish, "O, my sister, my sister!" The prisoner fainted during her sister's agitation, but was speedily recovered; the latter, after having been taken out into the open air, was soon sufficiently well enough to give her evidence, which she did with less apparent embarrassment than might have been expected. Her evidence was as follows:

In the month of September, 1816, I think on the 25th, I slept, as was my custom, with my sister, Mary Stone. About two o'clock in the morning, she said she was in extreme pain, and shortly after she was delivered of a female child; it cried, and I wanted to go out and call in assistance, but she would not let me. Very shortly after the child was born, it might be about half-past two or three o'clock on the morning of the 25th of September, my sister forced her hand into the infant's mouth, and choked it, and then thrust

the body into a pan under the bed. She afterwards threw herself on the bed, and got up in a moment as if to do something; I then said I would cry out, and call for somebody to come in: my sister replied, that if I attempted to do so, she would kill me that instant, and then kill herself: I was therefore so frightened that I desisted from attempting to give any alarm. My sister left the body in the pan on that night, and on the following one made up a fire in the room, and tried to burn it, but the flesh made such a crackling noise that she was afraid it would be heard, and she took it off the fire, and replaced it in the pan. The next morning she took it down-stairs, and burnt it in the copper to ashes; she then cleaned the copper out, and threw the ashes on the dunghill.

On her cross-examination by the common sergeant, who was counsel for the prisoner, she said:

I first told this story about twelve months ago, or shortly after I got married. I let it out one night in my sleep, and on being questioned the following morning by my husband, I confessed the truth to him; my husband is not here to-day. My sister kept the house we lived in at Richmond! it was a small house, having only three rooms, and being thinly partitioned, so that what passed within might be heard by the neighbours. My sister and I always slept in the same bed; my sweetheart then, but husband now, slept in the opposite room to ours; a man of the name of Davis Kenyon, and my brother, generally slept in the third room. I never said that my sister, who was an unmarried woman, was pregnant before this matter took place. I don't know that any person noticed it, for she generally slept in bed for a time before she lay-in. When she killed the child, I was afraid to alarm anybody, lest she would carry her threat into execution of making away with us both. My sister has used me very ill since this transaction; her ill usage commenced about a fortnight after it happened; she then threatened to turn me out of doors, and wished every bit I put in my mouth might choke me. She disliked my marriage, though I never had the least ill-will to her, or expressed myself to that effect to any person. I never said to Mrs. Wilkes that I would ruin the prisoner, or that I wished her dead to get the £500 out of the bank. I never said that, as I was not of age, I could not get the money yet, or hoped that she might die first. I believe we are entitled to £500, which is in the bank; Messrs. Smith and Walton are the trustees for my brother, sister, and myself. My brother told my husband of our having this property, but I never mentioned it to him, because I did not know exactly how the money stood. My sister had a child before this last; it is a grown boy; has always lived with her, and she treats him well; she reduced her last child's bones to ashes, and threw the ashes on the dunghill.

The following witnesses were called in her behalf.

Mrs. Elizabeth Wilkes said, that in September, 1816, she lived at Trentham, where she knew the prosecutrix, but not the prisoner. Her husband worked with her in shoemaking. Witness repeatedly heard the prosecutrix wish for her sister's death; saying, on such occasions, that she wanted her money. She remembered her saying on one particular occasion, "I wish she was dead, for then I would have the money, and my husband and I could get into business on our own account." About three weeks after the marriage of Harriet Hampton, she complained to witness, that the prisoner demanded three shillings a week from her husband for the time his wife had lived with her before she knew him; and, she added, "I am afraid she will get the amount from the trustee, Mr. Smith, who is her friend."

Mr. Walton, of Kingston, proved that he was a trustee under the will now produced, by which £500 was bequeathed to the prisoner, her brother, and sister, with the benefit of survivorship. The married sister was not yet of age.

Mr. Justice Abbott, in his charge to the jury, observed, that if they be

lieved the witness for the prosecution, they must convict the prisoner of the foul and horrible crime of the murder of her own new-born child: if they disbelieved her, they must decide that one of two sisters had falsely and infamously conspired against the life of the other, in the shocking expectation of thereby coming a short time sooner to the possession of some small property than she was likely to do in the usual course of things. In either alternative the reflection was most revolting. Nothing was surely more improbable than to believe that a woman, in a small house like the prisoner's, with every little room at the moment occupied, and the thin partition so communicating with the adjoining houses, that what passed in one was audible in the other; nothing, he repeated, could be more improbable than that a woman should have, without making the smallest noise, or expressing the slightest pain, so as to be audible outside her room, have borne the generally severe and acute pains of childbirth. There was not, besides, the smallest evidence to show that anybody had seen the prisoner in a state of pregnancy before this occurrence was said to have taken place; and it was most unlikely that an unmarried woman could have evaded observation in such a state. If the body were burned in the manner described, how had it happened that the very offensive effluvia arising from such a process had never attracted the notice of any person in this small house?

The jury, without hesitation, returned a verdict of *Not Guilty*.

ARTHUR THISTLEWOOD, JAMES INGS, AND OTHERS,

FOR HIGH-TREASON.—AT THE SESSIONS HOUSE, OLD BAILEY, BETWEEN THE 17TH AND 28TH OF APRIL, 1820.

On Monday, the 27th of March, the commission was opened at the Sessions House, Clerkenwell-green, by the lord chief-justice Abbott, and the lord chief-justice of the common pleas; when a grand jury was sworn, who, on the following day, returned true bills of indictment against Arthur Thistlewood, William Davidson, James Ings, John Thomas Brunt, Richard Tidd, James William Wilson, John Harrison, Richard Bradburn, John Shaw Strange, James Gilchrist, and Charles Cooper, for high-treason. On the 29th other bills were found for the murder and felony.

Monday, April the 17th, Arthur Thistlewood was put upon his trial.

The attorney-general stated the case for the crown. The prisoner at the bar had for some time conceived the wicked and nefarious plan of overturning the government so long established in this country; and it will appear to you that several, nay, all of the persons mentioned in the indictment, were participators in the same design; some of them, probably, coming into that purpose and design at a later period than others, but all of them concurring in the last criminal event which led to their detection. The more heinous the crime the more studious of secrecy will the criminals always be; and if you establish the principle that guilt is not to be exposed, and punished by the evidence of those who have participated in it, you will spread an immunity over crimes, secure and inviolable in proportion to the enormity of their wickedness. But I assure you the case does not rest upon the testimony of Adams, Hidon, and Dwyer, the accomplices; but there are facts which I fear the prisoner will not be able to answer. Why, I would ask, were these men assembled in Cato-street, and why at night? There were none of them related to each other, yet they were all armed with deadly weapons, and found in close deliberation in an obscure stable. There were also found there a

quantity of destructive grenades and fire-balls, together with a large portion of ammunition. But this is not all. At the houses of two others of the conspirators, namely, Brunt and Tidd, there were found similar articles of destruction, particularly ammunition. The weight found of the latter, gentlemen, amounted to between eleven and twelve hundred pounds; and I would ask, in the name of God, what object could these men have had in the possession of such a quantity of ammunition? Surely it could not even be for individual murder! No, gentlemen, it was the destruction of his majesty's ministers in the first place, the burning and levelling of public barracks and edifices in the next, and finally, the establishment of a revolution, and the appointment of a provisional government. What was the conduct of the prisoners when they were discovered in Cato-street? I want not, gentlemen, by a repetition of this term to inflame your minds; but it will be extremely important for you to remember, that when the officers entered the loft there, and said we are officers, they submitted not to their authority, but resisted them, even in the most ferocious manner, and one officer unfortunately lost his life. What became of the prisoner on the 23d, the intended night of blood and slaughter? Why, he flies from the desperate scene, not to his own home, but to an obscure place of concealment.

EVIDENCE FOR THE CROWN.

Robert Adams, examined by the solicitor-general.—I live in Hole-in-the-wall Passage, Brook's Market; I am a shoemaker. I was in the royal regiment of horse-guards. I left that service eighteen years since. I know the prisoner Brunt. I knew him at Cambray, in France, in 1816; he went then by the name of Thomas Morton. I know the prisoner Thistlewood—I first knew him on the 13th of January last;—I saw him at his own lodgings in Stanhope-street, Clare Market; I was introduced to him by Brunt and Ings; Thistlewood said to me, you were once in the life-guards? I said no. I originally belonged to the blues. He then said, you are a good swordsman? I said I could use a sword to defend myself, but I was not so good at it as heretofore, not having used a sword or other arms for some time back. On this he said—there was no person that was worth ten pounds that was worth any thing for the good of his country. As for the shop-keepers of London, they were a set of aristocrats together, and were all working under one system of government; he should glory to see the day that all the shops were shut and well plundered. His discourse then turned to Mr. Hunt—he said that Mr. Hunt was a coward, and no friend to the people, and he had no doubt if he (Thistlewood) was to get into Whitehall, he would find his name on the books as a spy to government. He then turned to Mr. Cobbett, and said that he and his writings were no good to the country, and he had no doubt he was a spy as well as Hunt. I was afterwards confined in Whitecross-street prison for debt, previous to which several interviews took place between us. The next interview was on the 16th, at the White Hart public-house, in Brook's Market; Ings, Brunt, Hall, and Tidd were present—we met in a room in the back yard.

On the 17th I went to prison—I remained there fourteen days; I came out on Sunday, the day after the death of the king. After I came out, I saw Thistlewood on the next evening in a back room on the same floor of a house in which Brunt lived, in Fox's-court, Gray's-inn-lane; Brunt, Ings, Hall, and Davidson were present; nothing particular took place on that night. I met them again on the Wednesday evening. Thistlewood, Brunt, Davidson, Harrison, and Edwards were present. On this occasion I saw a number of pike-staves, which Thistlewood wanted to have ferruled. Thistlewood expressed his surprise that Bradburn (one of the prisoners) had not done it. The staves were quite green, as if they had been just cut from the cover. Thistlewood then accused Bradburn of having spent the money. These meetings were held twice a day, from the time I came out of prison to the 23d of

February. Brunt had hired the room in which they met for Ings—there was no furniture. I recollect at one of these meetings I went up to the room; Thistlewood and Harrison were sitting at the fire. Harrison said, he had met a life-guardsman, who told him that the life-guards, and as many of the foot-guards as could be spared, would be at the funeral of the king at Windsor. He then added, that he thought this would be a favourable opportunity to kick up a row, and see what could be done. Thistlewood said, yes; and remarked, that provided they could take the two pieces of cannon in Gray's-inn-lane, and the six pieces in the Artillery-ground, they would have the means of getting London in their possession before morning. And even if the guards were to come back, they would be so tired that they could not do any thing. By perseverance, if they got the cannon, they might go to Hyde Park, and prevent any orderly from having any communication with Windsor. He said, it would be also necessary to go to the telegraph over the water, to prevent any communication with Woolwich. By this time they should be able to establish a provisional government, and would have an opportunity of sending to the seaports to prevent any gentleman from leaving this country without a passport from this provisional government. He mentioned Dover, Deal, and Margate, and especially Brighton; not that he thought the new king would be there, or even at the funeral of his father, he was so ill. He added, that the present family had inherited the crown long enough: it was no use, therefore, for the new king to think of wearing the crown any longer. Brunt and Ings came in after this discourse. Thistlewood communicated to them what had been said, but both of them declared that nothing short of the assassination of ministers would satisfy them. Brunt told me that two or three of them had drawn out a plan to assassinate ministers at the first cabinet dinner they had. The parties never scarcely met but that was the subject of their conversation.

On the 19th of February I went again to the room in Fox-court; Thistlewood, Davidson, Harrison, Ings, Brunt, and Hall were there. When I went in, they all got up and said—"Well, it is agreed; we have come to the determination, if nothing takes place between this and next Wednesday night, we will go to work." It was said they were all so poor they could not wait any longer. Thistlewood said to Brunt, you had better go round this afternoon, and see what men you can bring forward to attend the committee. Brunt said, he had some work to finish, but that he would get up in the morning and get a few, as it was not necessary to bring a great many. Thistlewood said, it would be prudent in those who came in the morning to bring arms with them, in case any officers should come up. Brunt said with an oath, if any officer came up, he would run him through. On the next morning I went at eleven o'clock—it was so dark, from a heavy fall of snow, that I did not at first see who was there; but after some time I saw Thistlewood, Davidson, Tidd, Cook, Hall, Bradburn, Edwards, Harrison, and Wilson: Tidd took the chair with a pike in his hand. Thistlewood said, gentlemen, I presume you all know what you are met for; and turning to the door, he said, the west-end job. Thistlewood then said, we are all of us tired of waiting for this job; if we do not find them altogether between this and Wednesday night, we are come to a determination to take them separately at their own houses.

I suppose, continued he, we can take as much as forty or fifty men to do the west-end job—and I propose at the same time, that the two pieces of cannon in Gray's-inn-lane, and the six pieces of cannon in the Artillery-ground, shall be taken. He then called upon Cook to command at the taking of the six pieces of cannon at the Artillery-ground. After these were taken, he proposed that the Mansion-house should be taken, as a seat for the provisional government; then they were to make a descent on the bank of England—and he proposed that Palin should be the man to set fire to the different buildings in the several parts of London. Brunt proposed, that as many of the ministers as they could assassinate, should be assassinated on

Wednesday, at all events, and that the men who were willing to undertake the job should be divided in lots. A man was to be drawn for the sole purpose of assassinating the party they went to; and whoever that fell upon, that man should be bound to do it, or be murdered himself; should he fail in doing of it, he swore by all that was good that man should be run through upon the spot. Upon this, I said to Mr. Brunt, "Do you mean to say that a man may not fail in undertaking such a thing—and do you mean to say, that a man in so failing shall be run through upon the spot himself?" He said "No, unless there was the least sign of fear." Mr. Brunt's motion was then put from the chair, and agreed to: some others came in, and were apprized of the resolution. Palin got up and said, "You talk of taking from forty to fifty men to the west-end job; I should like to know, then, where you are to find the men to take the cannon; but you may know more on the subject than I do. I want to know also," said he, "in calling upon the men I intend to go to, if I can tell them in fact what is to be done?" The chairman replied, "that no doubt Mr. Palin knew the men he had to depend upon." They were then going to separate, when Mr. Thistlewood said, "Brunt, take Mr. Palin to the place hard by, and see whether he could set fire to Furnival's-inn." Palin and Brunt soon returned, saying, "it was very easy done, and would make a good fire." Thistlewood said, "he thought it was highly necessary to give the men a treat." Brunt said with an oath, although poor, he had a pound note, which he would apply to that purpose. The White Hart was proposed and objected to, in consequence of something which had been said of that place; but it was finally agreed they should be brought to Brunt's room, who was to send his son and apprentice out of the way. Thistlewood's room was mentioned, but he objected, as an officer lived nearly opposite to him.

On Monday I went again to the room about 10, A. M. Thistlewood, Brunt, Harrison, Hall, Ings, and others were present. I said, I had something to communicate, and told them that Hobbs, the landlord of the White Hart, had told me that two officers had called from Bow-street and Hatton-garden, and asked whether a radical meeting did not take place there? The officers said, they had information there was, and that there was similar information given at lord Sidmouth's office. Harrison on this said to me, like a bull-dog, Adams, you have done wrong. Brunt also said, like a lion, I had done wrong, for if I had any thing to communicate, I ought to have communicated it to them alone. I said what, concerned all ought to be communicated to all. Potter and I went to the White Hart, where Palin and Bradburn came to us. I went again the next morning; Brunt, Ings, Hall, Davidson, Harrison, Wilson, Palin, Potter, and Bradburn were there. Edwards came in, and told Thistlewood there was to be a cabinet dinner next night. Thistlewood doubted it, and a newspaper was sent for; it contained an account that there was to be a cabinet dinner at lord Harrowby's in Grovesnor-square, on Wednesday evening. On this Brunt said, "I'll be d——d if I don't believe now that there is a God; I have often prayed that these thieves might be collected together in order to give us a good opportunity to destroy them, and now God has answered my prayer." I was put in the chair, and Thistlewood proposed to form a fresh plan. I called to their recollection what Hobbs had said to me the day before. On this Harrison swore that the first man that said a word to throw cold water on the concern, he would run that man through with his sword. (They were all in the greatest confusion.) I was put out of the chair, and Tidd was put in. Thistlewood wanted to proceed in the business when Palin said, he wanted to be satisfied as to what had fallen from me on the previous morning. On this, in the end, Brunt moved that a watch should be set on the earl of Harrowby's that night, to see if any men or soldiers went into the house, in order to waylay anybody that might go there. That was approved of; two were to go on at six and remain till nine, and to be regularly relieved every two hours. Thistlewood then came forward and

said, he hoped every one would be satisfied if no officers or soldiers went into the house; and that they would do what they thought of the next evening. He then said, "that as there had not been a dinner so long, there would no doubt be fourteen or sixteen there, and it would be a rare haul to murder them altogether." He afterwards proposed that one should go with a note to present to the earl of Harrowby, and when the door was open, the other men to rush in and seize the servants, and threaten them with death if they stirred. This being done, men were to take the command of different parts of the house, to prevent the escape of the servants, and if they attempted to stir, to throw a lighted hand-grenade among them. Two men were also to be placed at the area for the same purpose. At the same time the men who were to do the assassination, were to rush into the room in which the cabinet ministers were, and to murder them all, good and bad: if there were any good ones, they were to be murdered for keeping bad company. Ings offered to enter the room first, with a brace of pistols, a cutlass, and knife in his pocket, and with a determination to cut off every head there, and to bring away lord Castlereagh's and lord Sidmouth's heads in a bag, which he was to have for the purpose. He said he would say on entering the room, "Well, my lords, I have got as good men here as the Manchester yeomanry! enter, citizens, and do your duty."

Upon this word of command from Ings, two swordsmen, followed by others with pikes and pistols, were to come in and to fall to work murdering as fast as they could. Harrison was one swordsman, and I was the other. Harrison had been in the lifeguards. Seeing my life was in danger, I agreed to it. After the execution had been done, Harrison and Wilson were to go the King-street cavalry barracks, and to take a fire-ball to fling into the straw shed. The rest of the party were to proceed to Gray's-inn-lane, to the city light-horse barracks, to meet the men who were to take the cannon, to assist them. They were to proceed from thence to the Artillery-ground, to assist Mr. Cook in taking the six cannon. The cannon were to be loaded, to be fired on any person who might be disposed to resist. If Cook was able to take the cannon himself, he was to proceed to the Mansion-house, and to plant three of them on each side of that building. He was then to demand possession of the Mansion-house, and if it was refused, he was to fire at it. The Mansion-house was to be the seat of the provisional government. An attack was to be made on the bank. The funds were to be removed, but the books were not to be destroyed, as they would enable them to see further into the villany practised on the country for years past. Harrison proposed that there should be a countersign, one man was to say "*but*" and the other "*ton*," which was "button." In the afternoon I went to the house again, and found Edwards making a fuse for the grenades. Ings was making the illumination balls, with rope-yarn and tar; Hall was assisting. I called again the same evening, and saw two strange men, one of whom was Harris. Brunt and Thistlewood were there.

Davidson went on watch at lord Harrowby's, at six o'clock. I and Brunt afterwards went. When we got in the square I saw Davidson and another man, whom I did not know. Before we went into the square, Brunt and I had some bread and cheese at a public house. Brunt played dominoes with a young man. We went off the watch at twelve o'clock. On the next day I went again between two and three; Brunt was in his own room, and while I was there Strange came in. A few minutes after two strangers came in. I turned my head, and saw some pistols in a drawer. Strange and the men that came in tried the flints. Brunt then invited them into the back room. On going there I saw several swords, a blunderbuss, several pistols, and other arms; the strangers began putting flints into the pistols. They had not been long there before Thistlewood, Ings, and Hall came in; Thistlewood looked round, and said, "My lads, this looks like something; this looks as if something is going to be done." Brunt sent out for some beer

and spirits. When the spirits came, Thistlewood wanted some paper to write some bills, and gave a shilling to buy it; some cartridge paper was brought, and a chair and table for Thistlewood to write on. Three bills were written by him and read. The first was :—

"*Your tyrants are destroyed. The friends of liberty are called upon to come forward. The provisional government is now sitting.*

"JAMES INGS, Secretary.

"*February* 23, 1820."

There were three of these written; they were to be stuck on the houses which were on fire. When Thistlewood wrote the last of these bills, he was very much agitated; his hand shook greatly. He then proposed that Hall should take the pen, but Hall objected. A stranger afterwards took the pen and sat down to write. Thistlewood dictated to him. The paper was not completed, because they could not agree upon the terms. Thistlewood said he had given orders to have the bills prepared a fortnight before, but they had not been done.

While these bills were writing, Ings was preparing himself in the manner in which he was to enter the house of earl Harrowby. He put on a black belt round his waist and another over his shoulders; he also put on two bags like haversacks, and then pistols in his belts; he afterwards looked at himself, and said, "D—n my eyes, I am not complete now; I've forgot my steel." He then took out a large knife, and brandished it about, as if he were cutting off heads; he then swore that he would bring away two heads in his bags, and one of lord Castlereagh's hands, which he would cure (salt), as it might be thought a good deal of hereafter. He repeatedly made use of these expressions. The knife was twelve inches long, with a rough handle, round which there was some wax-end to prevent it from slipping in the hand. The other men were equally busy in equipping themselves. Palin came in about half-past five. Thistlewood and Brunt having left the room for a short time, Palin addressed those who were present, and said, "Gentlemen, are you all aware of what you are going to do? you ought to think whether the assassination of ministers will be countenanced by your country. And you ought to come to a resolution that the man who flinches ought to be run through on the spot." He was going on, when a tall man said, "You speak as if we all knew what you are about. I should like to know what it is." This man was a stranger. He said to Palin, "If we turn out to serve our country, I am not the man that will be afraid of myself." Brunt came back, and was told that some of those present wished to know what they were going about? Brunt replied, that they should go along with him to the room in Edgware-road, and they should hear all. Brunt then said, all that came with him should have something to drink. The tall stranger said he hoped he was not going to encourage drunkenness. It was agreed to go in parties of two. There was a cupboard in Brunt's room, which was used to hold swords, hand-grenades, and flannel bags for the cartridges for the cannons. But the depôt was at Tidd's, next room to myself.

When we set off I had a blunderbuss under my great coat, and Brunt had a broom-stick, prepared to receive a bayonet; this he also gave me to carry. At the depôt were some pikes, made out of old files or bayonets. Brunt went back, but I afterwards met him, and he took me along the Edgware-road till we met Thistlewood. We then went to a stable in Cato-street. As I was going under the archway, I saw Thistlewood and Brunt go into the stable. Harrison came up, and said, "Go in." When I entered I saw Davidson and Wilson, apparently doing something with a pike. I went up the ladder, and in the loft found Thistlewood, Brunt, Hall, Bradburn, Strange, Cooper, the tall man I have already alluded to, and several others. In the

end there were eighteen in the room and two down-stairs. There was a bench in the loft, on which there were arms of different descriptions. There was one candle; there was also a chest in the room; when I first went in, they were all handling the arms; Tidd did not come for twenty minutes after; Thistlewood went out for some time, but on his coming back I heard Tidd talking. I went down, and found Thistlewood, Brunt, Davidson, Harrison, and Wilson in the stable. When they perceived me, they said in a fluster, what good news they had got, for all the carriages were assembling in the square; when I went up again, I saw Thistlewood and Brunt together much agitated; they were talking something about Tidd, when Thistlewood uttered an exclamation, that "he would hang himself if he thought any more about it." Brunt said he would lay his life that Tidd would come, and he did come in a few minutes. Thistlewood then said, I hope you will not give up what you have determined on; it will be another Despard job if you do. He then counted the men, and said there were quite sufficient. Fourteen men could go into the room. Thistlewood said that they were quite enough, even if lord Harrowby had sixteen servants. Immediately after I heard a noise below, and somebody said, "Holloa, hold a light." Thistlewood took the candle to see who it was, and turning round, he looked quite confused. At this time the officers entered the room. Two stood in front. One of the officers had a small pistol in his hand, and said, "Here's a pretty nest of you." The officer also said, "We have got a warrant to apprehend you all, and hope you'll go peaceably." At this instant, one of the officers behind said, "Make way, and let me come forward." The two officers above made way, and the man came forward, and at that moment a group that had got into a little room of the loft, advanced forward, when I saw an arm come forward, and another arm follow it with a pistol. I saw the officer fall, and heard a pistol discharged, upon which the candle was put out; I went down the ladder, and got away; I went home, and was apprehended on the Friday following; I have been in custody ever since. The witness now identified Thistlewood, Davidson, Wilson, Brunt, Ings, Cooper, Harrison, and Tidd. He did not know Strange, Bradburn, or Gilchrist by name, though he knew them by sight.

I told all I knew on the Saturday after I was apprehended; not upon an understanding that I was to become an evidence. The reason for my telling all I knew was, that my conscience told me I had been doing wrong; and I vowed to God, if he spared me, I would reveal the whole. I had some of those feelings before I was in custody. I had it before I entered the loft; but when I heard the man was murdered I was worse. I went down-stairs with the intention to surrender myself to the officers, but not seeing any I went away. The most men I ever saw together, were fifteen. The largest sum of money I ever saw amongst them was six shillings. I do not know what force could be brought into the field. The cannon were to be loaded with powder, and the tops of some of the iron railings were to be knocked off for balls. I have not seen Edwards since the 22d of February. He seemed in close connexion with Thistlewood and Brunt. My own arm was not within sufficient reach to stab Smithers.

Thomas Hidon.—I was a cow-keeper, and formerly a member of a shoemaker's club, where I knew the prisoner Wilson. I saw him at the club a few days before the 23d of February; he asked me if I would come forward, and be one of a party to destroy his majesty's ministers (these were his words) at a cabinet dinner. Every thing was, he said, prepared for the occasion, and the dinner was at hand. If I would join them, he said, Mr. Thistlewood would be glad to speak to me. He also stated, that hand-grenades were prepared for throwing under the dinner-table, and that the ministers who escaped the explosion were to die by the sword, or some other weapon. They were also to fire some houses, and create a general confusion to distract the public attention for three days, by which time all would be

arranged. The fires were to be at stations fixed upon, and among them were to be the houses of the duke of Wellington, lord Harrowby, lord Castlereagh, lord Sidmouth, the bishop of London, and some others, which I now forget; this was four or five days before the Cato-street occurrence. I went to lord Harrowby's house before the 23d of February, to inform his lordship of what was going on. He was out, and I followed him to the Park, where the servant said he had gone; I met him there, and gave him, while he was riding, a note containing the whole plot. I met Wilson about five o'clock in the evening of the 23d of February; he said I was the man of all others he wanted to see; he told me that the business was to be done that night at a cabinet dinner, and begged of me to meet him as soon as I could on that evening, at the Horse and Groom, John-street; he told me that we were to have the aid of another party in the borough, and that all the Irish in Gee's-court, Oxford-street, were in the plan; but they would not stir until the English did first, as they had so often been deceived before. Wilson said, a gentleman's servant had been supporting some of the party, and would give them more money if they went actively through the business. He explained to me, that after we did the grand piece of work in Grosvenor-square, we were to retreat into the city as quick as we could, and rally at the Mansion-house. I promised to join him as soon as I possibly could. I went accordingly at seven o'clock, and saw Wilson and Davidson; the latter complained I was after my time.

The Earl of Harrowby.—I reside in Grosvenor-square. I am president of the council, and a member of the cabinet. On Wednesday, the 23d of February, I was to have had at my house a cabinet dinner, and cards of invitation had been issued to the following personages: the lord chancellor, the earls of Liverpool, Westmoreland, and Mulgrave, earl Bathurst, the duke of Wellington, lord Melville, lord Castlereagh, the chancellor of the exchequer, Mr. Canning, Mr. Wellesley Pole, Mr. Robinson, and Mr. Bragge Bathurst. At a cabinet dinner, none but the members of the cabinet were invited. On the Tuesday before the intended dinner, I was riding in the Park about two o'clock, preparatory to my attending a council. I had no servant with me. A person addressed me near Grosvenor-gate, and said he had a letter addressed to lord Castlereagh. The letter now in court is that letter. The man, who was the last witness, at my desire, gave me his address. He met me, by appointment, on Wednesday morning, in the ring in Hyde-park. The cabinet dinner did not take place as intended on the Wednesday, but the preparations for it were carried on in my house just as if it was to take place; nor did I countermand them until eight o'clock on that evening, when I wrote a note to my head servant, from lord Liverpool's.

John Monument.—This witness was brought into court by two yeomen of the guard from the Tower. I am a shoemaker, and lived near Brook's market. I know Thistlewood; he called on me with Brunt, and said that great events were at hand; he had often been promised the support of many who deceived him, but that now he had got men who would stand by him. He observed, all had got arms; some had swords, others pikes or pistols, and that I might get a pistol for five shillings. I answered that I had no money. Well, then, said he, I shall see about it. Brunt came to me on the 22d of February, accompanied by Tidd; he told me, that events had often rendered a change of plan necessary, but that now all was fixed. He desired me to go on the next night to Tyburn turnpike; I was to speak to some people there; I was to say BUT, and if they were friends, they were to say TON. Brunt called again on the afternoon of the 23d, between four and five, and asked if I was then ready to go. I promised to do so at six o'clock. At half-past six o'clock I went to Tidd's house. I saw him there; he took a large pistol out of a trunk, and fastened it in a belt round his waist under his great-coat. He also took out about ten pikes, a foot long each, and some staves to fix them on. We then went together up to John-street; on the

way I pressed to know where we were going, whether it was to the house of commons; he replied, no, there were too many soldiers about that place. At last he told me we were going to a cabinet dinner in Grosvenor-square. We went to Cato-street, and I ascended the steps from the stable to the loft, which was a small one. There were twenty-four or twenty-five men in the room. One man, in a brown great-coat, who was sitting down, and who had a belt with pistols in it round him, talked of the impropriety of attacking the cabinet ministers at lord Harrowby's with fourteen men. Thistlewood insisted that number would be an overmatch for sixteen of lord Harrowby's servants. One man said, after we are done, there will be a crowd about the door—how shall we get away? Thistlewood said there would be another body ready to assist us. Davidson rebuked the man who talked of the fourteen men, and said, if he was afraid, he had better go about his business. Brunt also said, that sooner than now throw up the business, he would do it himself, and blow up the house with the combustibles they had, and perish with the rest. The man who was then objecting, then said, that as all were ready, he would join also, and go under Mr. Thistlewood's orders. Thistlewood said they would all share equally with him in the honour of the exploit; and then proposed that fourteen should volunteer to go into the dinner-room, that those who were ready to do so should file off at the side of the loft; a number did so. Thistlewood then went out for a minute, and when he returned, said, that lord Sidmouth and the duke of Wellington were already arrived at lord Harrowby's. Nothing else occurred until the officers and soldiers came up, and took us into custody.

Thomas Dwyer.—I live in Gee's-court. Before the 23d of February, I became acquainted with Davidson. He introduced me to Mr. Thistlewood. We went together to a public house, near Cato-street, the 9th, 10th, or 11th of February. Thistlewood said that he was in five or six different revolutions, and that Ireland was in a disturbed state. I am an Irishman; and he said that he had a good many of my countrymen. I saw Davidson on the 22d. The next morning I went to Fox-court, Gray's-inn-lane; Davidson told me he was going on sentry; I went with Harrison to Fox-court; he had a bundle wrapped up in paper; we went to a two-pair back room; the door was locked when we got there, but Harrison got the key; when we got in, I saw a cupboard, from which I afterwards saw a ball taken, wrapped up in rope-yarn; Harrison said it was a grenade: Thistlewood, Davidson, and a few more came in subsequently; Davidson had a blunderbuss, a pair of pistols, and a bayonet in his side-pocket: I saw Brunt there; Thistlewood said that some of the grenades were to be thrown into the horse barracks, and some more of them into lord Harrowby's, to set fire to the house and blow it up. Thistlewood asked me how many of my countrymen I could muster, at half-past eight that evening? I said about twenty-six or twenty-seven; he told me to assemble with them at the Horse and Groom, and that I was to be at the Pomfret-castle at six o'clock, at the end of Wigmore-street, a house frequented by Irishmen; we were then to go to the Foundling hospital, put a pistol to the porter's breast, and then to turn round to the right-hand, where I would see five or six-and-twenty stand of arms, which I was to seize; another party was to seize two pieces of cannon at the city Riding school, Gray's-inn-lane: more, he said, would make a breach in Finsbury; he said that there was to be a cabinet dinner at lord Harrowby's that day, and that they were to make an attack there. After this I saw a bundle taken out of the cupboard; it contained gunpowder, which was measured into some flannel bags; I got into my own place about twelve o'clock; I that day told a major James of what I had heard and seen. In consequence of what he said to me, I went to the secretary of state's, about one, or half-past one.

George Thomas Joseph Ruthven.—I am a constable at the public office, Bow-street. I went to Cato-street on the afternoon of the 23d of February My party amounted to at least twelve. I went into the stable, and I saw a

man with a blunderbuss or a gun on his shoulder, and a sword, or some side-arm. My party followed me into the stable. I found a ladder, up which I went; it led to a loft in which I observed several men. I heard the clattering of arms, and saw swords and pistols. Three or four had come up with me. Ellis and Smithers were up. There were about four or five-and-twenty persons in the room. The size of the room was fifteen feet five one way, and fifteen feet ten the other. There were two rooms adjoining the loft, communicating by doors. When I gained the loft, I said, "We are officers, leave your arms!" I saw in the room the prisoner, Thistlewood. I had been acquainted with his person between four and five years. He was standing on the right-hand side of the table, near to the little room, as we entered. Immediately on my exclamation, he seized a sword from the table, and stood back into the little room. The sword was drawn when he seized it. It was a very long sword, rather bright. He stood fencing with the sword to prevent anybody coming to him. Smithers approached him, upon which he thrust his arm forward, and pierced Smithers, who fell. Smithers said, as he fell, "Oh, my God! I am done!" The lights were put out, when somebody said, from the corner of the room where Thistlewood was, "Kill the ——; throw them down." There were eight lights; they were all put out, and we were all in the dark. I heard a rush to the ladder, and a cry of, "Ay, kill them." I joined in their cry, and rushed down with them. On getting down, I did not observe any thing till I got into John-street, where I found the soldiers. I then returned. There were twenty or thirty shots fired; some in the room, and some from the window. On my return, I observed a man going to the door. I called out, and he lifted his arm to fire. That was Tidd. I caught hold of his right arm, and we closed and fell. The soldiers came up instantly, and the pistols went off. He was secured, and I searched him. Round his waist I found a leathern belt of a buff colour, in his pocket two ball cartridges. I searched him in the public house. While there, Bradburn was brought in. I searched him, and found round his waist a string wrapped four or five times round to answer for a belt. I also found six ball-cartridges, and three balls in his pocket. Davidson and Wilson were afterwards brought in. When Davidson was brought in, he swore against any man that would not die in liberty's cause, for he would, he also sung part of the song of "Scot's wha ha'e wi' Wallace bled." I returned to the loft, and found some soldiers there. Shaw, Strange, Cooper, Monument, and Gilchrist were also there. On looking about, I saw arms in the possession of different people. I searched myself and found two swords, and a bag, containing ten hand-grenades. There were also two papers wrapped up containing nothing but tow and tar. There was likewise a very large grenade, as big as my hat. These grenades had fuses. The arms and grenades were subsequently taken to Bow-street.

Captain Fitzclarence.—I recollect, on the 23d of February, going with a picket to John-street. I had been desired to attend by Mr. Birnie; it was between eight and a quarter after eight when I arrived; I heard a pistol-shot, and led on the picket to Cato-street; there is an arch over the entrance; I met a police officer, who called out, "Soldiers, soldiers—the door-way;" I went to the stable; I met two men in the door-way, one on the right, the other on my left; one of them cut at me with a sword, the other attempted to fire at me with a pistol; the man who cut at me, seeing the body of troops behind me, ran into the stable. There was a scuffle between the other man and sergeant Legg. I pursued the first man into the stable, who exclaimed, "Don't kill me, and I'll tell you all." I gave him to the picket. I then ran into one of the stalls, and secured a second man. I afterwards caused a file of grenadiers to follow me into the loft, where we secured three, four, or five other men—I believe four. Smithers was lying dead, and several sorts of arms were lying about.

THE DEFENCE.

Mr. Curwood now rose to address the jury on the part of the prisoner. This was the question which they had to try. First, had the prisoners at the bar conspired or imagined the death of the king?—then, had they conspired to depose his majesty from his imperial style and dignity?—thirdly, had they conspired to levy war against the king? He apprehended that they must be satisfied that one or the other of these charges was proved before they could find a verdict of guilty. The great mass of evidence which had been adduced certainly led them to conclude that a conspiracy of some kind had existed; but it did not follow that the substantive treason charged in the indictment had therefore been committed. Would it be contended, that this removal of an administration was necessarily connected with the deposition of the monarch, and that every man who attempted to effect such a purpose would be involved in the crime of high-treason? More violent men might think it necessary that an administration should be removed by violence. He desired not to be misunderstood, as meaning under that plea to justify assassination. All he meant to argue was, that they must not take it as a necessary consequence that the death or destruction of a whole administration involved the death and deposition of the king. In conclusion, the learned gentleman said, he would proceed to call a witness to prove that Adams, who had been called for the crown, together with an accomplice of the name of Edwards, who had not been called, were the persons who had conveyed the arms and ammunition to the house of Tidd on the very morning they had been found there by the Bow-street officers.

Mary Parker.—I am the daughter of Richard Tidd; I remember the police officers coming and finding some things in our lodgings; those things had been in the house when they came, about a quarter of an hour; I know a person of the name of Edwards; I have also seen him at my father's often; he has brought similar things before; Edwards took part away; Adams brought a large grenade; I do not know where Edwards was.

Edward Hucklestone.—I know a man of the name of Dwyer. I do not think he is to be believed on his oath.

Mr. James Doane.—I am called the court reporter. (Looked at the announcement in the New Times.) The paragraph respecting the cabinet dinner, from the wording, I think I did not send. I do not think I would use the word "grand."

Andrew Mitchel.—I am printer of "The New Times;" I produce the original of the paragraph.

Mr. Doane recalled.—That is not my manuscript.

John Whitaker—I searched in eleven newspapers, in none of which papers was there such an announcement as that in "The New Times."

The lord chief-justice stated to the jury, in a strong and perspicuous manner, the law of high-treason, as it existed both in the statute of Edward III. and in the more recent statute of the 36th of the late king. He then recapitulated the four charges contained in the indictment against the prisoner, and the several overt acts alleged to have been committed in furtherance of their design. He then read over the material points of the evidence.

At three quarters of an hour after four o'clock, the jury retired to consider of their verdict. They returned, however, in ten minutes, for the purpose of requesting the lord chief-justice to read to them the precise terms of the statute of 36th of George III. His lordship having complied with their wish, and made some explanatory observations, they again retired. At a quarter past five they returned once more, with their final determination, and announced their verdict to be—*Guilty of the third and fourth counts of the indictment*:—that was to say, on those counts which charged the prisoner with conspiring to levy war, and with the actual levying of war against the king.

Wednesday, April 19.

TRIAL OF INGS.

The solicitor-general stated the case for the prosecution.

Robert Adams, the accomplice, was first called for the crown. His testimony was, for the most part, similar to that already given. He added, that there was a conversation about the illness of the present king; Thistlewood said he would rather the new king lived a little while longer, but it was not their intention he should ever wear the crown. Ings upon this said, that the very day the prince-regent last went to parliament, he himself went to the Park for the purpose of shooting him; and as a test of his sincerity, he said, "There's the pistol I took with me." He regretted he had not done it, and if he had, he should not have cared a farthing for his own life.

The other witnesses deposed as on Thistlewood's trial, with the exception of Dwyer, who was not called.

Mr. Adolphus rose, and addressed the jury. He earnestly requested the jury not to give credence to the evidence of the witness, Adams. If upon such infamous testimony men were to be sacrificed, he contended that they might soon see another judge Jeffreys on the bench, and another Titus Oates in the witness-box!

Ings, turning towards the jury, addressed them at some length. He said he had lived at Portsea, but not being able to keep his wife and family, had come to London. He set up as a butcher in Baker-street, but failed. He was then in great distress, when he met Edwards, who urged him to join the conspiracy, and was the cause of his being brought to his present situation. He concluded by saying, "I have a wife and four little children. I was driven to every distress. I hope, gentlemen, before you find a verdict, this man will be brought forward, because I consider myself a murdered man. Edwards came to me. I did not go to him. I was once at a public-house in Brooks-court; but I never was at any meeting at all. I was at no radical meeting. I was not at any Smithfield meeting. That man, Adams, who has got out of the halter himself by accusing others falsely, would hang his God. I would sooner die, if I had five hundred lives, than be the means of hanging other men."

The attorney-general replied for the crown. Chief-justice Dallas summed up. Verdict—*Guilty*.

Monday, April 24.

TRIAL OF BRUNT.

At nine o'clock the chief baron Mr. Baron Garrow, and Mr. Justice Richardson, took their seats.

The attorney-general stated the case.

The evidence was substantially the same as in the two former cases.

The proceedings were in the evening adjourned till the next day, when Mr. Curwood rose to address the jury on the part of the prisoner, and was followed by Mr. Adolphus.

Brunt then rose, and with a firm voice, stated the origin of his acquaintance with the witness Adams, and attempted to impeach the whole of the witnesses who had appeared against him. He alluded to a person (Edwards) in the list of witnesses on the part of the crown, whose name had often been mentioned in the course of these proceedings, but who had not been called upon. He declared that he had been seduced by this man, and had often received refreshment of meat and drink at his expense. Whatever might be his fate, he would not die unworthy a descendant of the ancient Britons.

The jury retired, and in about ten minutes returned with a verdict of *Guilty* on the third and fourth counts.

Wednesday, April 26.

TIDD AND DAVIDSON.

The witnesses for the crown were examined in nearly the same order as on the trial of Thistlewood; and nothing new was elicited by their evidence.

William Davidson, on being asked if he wished to say any thing in his defence, said, that he had a numerous family looking to him for support. He then, laying his hand upon his heart, declared his entire innocence of the crime imputed to him: he stated, that because he was a man of colour, it did not follow that he was a monster in creation, void of feeling and understanding. He quoted from Pope's Universal Prayer, and also referred to the passage concerning false witnesses, which he delivered from the Bible. He had known lord Harrowby for many years, and should have shuddered at the idea of joining in any plot in which his life was concerned.

Richard Tidd now entered into a detail respecting his having been brought into his awful situation by the machinations of Edwards. Edwards conducted him to Cato-street, and in about a quarter of an hour the officers entered. He finished by a declaration of his total ignorance of the plot, and therefore of his consequent innocence.

The attorney-general replied, and Mr. Baron Garrow summed up the evidence. The jury retired at eight o'clock for more than half an hour; and on their return pronounced against both prisoners, *Guilty* upon the third count, levying war against the king.

Wilson, Harrison, Bradburn, Strange, Cooper, and Gilchrist severally desired to withdraw their former plea, and on its being withdrawn, pleaded guilty.

Mr. Shelton then asked Thistlewood what he had to say why sentence of death should not be passed upon him; and he thus addressed the court:—

"My lords,—I am asked, my lord, what I have to say that judgment of death should not be passed upon me according to law. This to me is mockery; for were the reasons I could offer incontrovertible, and were they enforced even by the eloquence of a Cicero, still would the vengeance of my lords Castlereagh and Sidmouth be satiated only in the purple stream which circulates through a heart more enthusiastically vibrating to every impulse of patriotism and honour, than that of any of those privileged traitors to their country, who lord it over the lives and property of the sovereign people with barefaced impunity. The reasons which I have, however, I will now state; not that I entertain the slightest hope from your sense of justice, or from your pity. The former is swallowed up in your ambition, or rather by the servility you descend to, to obtain the object of that ambition; the latter I despise. Justice I demand. If I am denied it, your pity is no equivalent. In the first place,

"I protest against the proceedings upon my trial, which I conceive to be grossly partial, and contrary to the very spirit of justice; but, alas! the judges who have heretofore been considered the counsel of the accused, are now, without exception, in all cases between the crown and the people, the most implacable enemies of the latter. In every instance, the judge charges the jury to find the subject guilty: nay, in one instance, the jury received a reprimand, and that not in the genteelest terms, for not strictly obeying the imperious mandate from the bench.

"The court decided upon my trial to commit murder rather than depart in the slightest degree from its usual forms. Nay, it is with me a question if the form is usual which precluded me from examining witnesses to prove the infamy of Adams, of Hiden, and of Dwyer. Ere the solicitor-general replied to the address of my counsel, I applied to the court to hear my witnesses. The court inhumanly refused. And I am in consequence to be consigned to the scaffold. Numerous have been the instances in which this rule of court

has been infringed; but to have infringed it in my case, would have been to incur the displeasure of the court, and to forfeit every aspiring hope of promotion. A few hours hence, and I shall be no more; but the nightly breeze which will whistle over the silent grave that shall protect me from its keenness, will bear to your restless pillow the memory of one who lived but for his country, and died when liberty and justice had been driven from its confines by a set of villains, whose thirst for blood is only to be equalled by their activity in plunder. For life, as it respects myself, I care not; but while yet I may, I would rescue my memory from the calumny which I doubt not will be industriously heaped upon it, when it will be no longer in my power to protect it.

"I would explain the motives which induced me to conspire against the ministers of his majesty, and I would contrast them with those which these very ministers have acted upon in leading me to my ruin.

"Many people who are acquainted with the barefaced manner in which I was plundered by my lord Sidmouth, will, perhaps, imagine that personal motives instigated me to the deed; but I disclaim them. My every principle was for the prosperity of my country. My every feeling, the height of my ambition, was the welfare of my starving countrymen. I keenly felt for their miseries; but when their miseries were laughed at, and when, because they dared to express those miseries, they were inhumanly trampled upon, my feelings became too intense, too excessive for endurance, and I resolved on vengeance; I resolved that the lives of the instigators should be the requiem to the souls of the murdered innocents.

"In this mood I met with George Edwards. This Edwards, poor and pennyless, lived near Picket-street, in the Strand, some time ago, without a bed to lie upon, or a chair to sit in. Straw was his resting place; his only covering a blanket. Owing to his bad character, and his swindling conduct, he was driven from thence by his landlord. It is not my intention to trace him through his immorality; suffice it to say, that he was in every sense of the word a villain of the deepest atrocity. His landlord refused to give him a character. Some short time after this, he called upon his landlord again; but mark the change in his appearance; dressed like a lord, in all the folly of the reigning fashion. He now described himself as the right heir to a German baron, who had been some time dead; that lords Castlereagh and Sidmouth had acknowledged his claims to the title and property, had interfered in his behalf with the German government, and supplied him with money to support his rank in society. From this period I date his career as a government spy.

"He got himself an introduction to the Spenceans; by what means I am not aware of; and thus he became acquainted with the reformers in general. When I met with Edwards after the massacre at Manchester, he described himself as very poor; and after several interviews, he proposed a plan for blowing up the house of commons.

"I had witnesses in court who could prove they went to Cato-street, by appointment with Edwards, with no other knowledge or motive than that of passing an evening amongst his friends. I could also have proved that subsequent to the fatal transaction, when we met in Holborn, he endeavoured to induce two or three of my companions to set fire to houses and buildings in various parts of the metropolis. I could prove that subsequent to that again, he endeavoured to induce men to throw hand-grenades into the carriages of ministers as they passed through the streets; and yet this man, the contriver, the instigator, the entrapper, is screened from justice and from exposure, by those very men who seek vengeance against the victims of his and their villany.

"High-treason was committed against the people at Manchester; but justice was closed against the mutilated, the maimed, and the friends of those who were upon that occasion indiscriminately massacred. The prince, by the advice of his ministers, thanked the murderers, still reeking in the gore of

their victims. If one spark of honour, if one spark of independence, still glimmered in the breasts of Englishmen, they would have risen as one man; insurrection then became a public duty, and the blood of the victims should have been the watchword for vengeance on their murderers."—

Chief-justice.—We cannot permit this.

Thistlewood.—"My lords, a few words more. Albion is still in the chains of slavery; I quit it without regret; I shall soon be consigned to the grave; my body will be immured beneath the soil whereon I first drew breath. My only sorrow is, that the soil should be a theatre for slaves, for cowards, and for despots. My motives, I doubt not, will hereafter be justly appreciated. I will, therefore, now conclude by stating, that I shall consider myself as murdered, if I am to be executed on the verdict obtained against me by the refusal of the court to hear my evidence. I could have proved Dwyer to have been a villain of the blackest dye, for, since my trial, an accomplice of his, named Arnold, has been capitally convicted at this very bar for obtaining money under circumstances of an infamous nature. I seek not pity; I demand but justice; I have not had a fair trial, and upon that ground I protest that judgment ought not to be passed against me."

Mr. Shelton next addressed himself to Davidson, and put to him the same question. Davidson spoke an address of some length, of which the following is the purport:—

"My lords,—I stand here helpless and friendless. I endeavoured to show that the evidence against me was contradictory and incredible, and I hoped I had made an impression on the gentlemen in the box; but the moment I had done, the attorney-general got up, and told them that the evidence was pure and uncontaminated, and to this I may add, that Mr. Baron Garrow almost insisted that they should pronounce me guilty. But even supposing, for the sake of argument, that the lives of his majesty's ministers were threatened, it did not follow that this was to extend to the king himself. In a passage of Magna Charta, it was ordained that twenty-five barons should be nominated to see that the terms of the charter were not infringed; and if it was found that his majesty's ministers were guilty of such infringement, then four barons were to call upon them for redress. If this were not granted, then the four barons were to return to their brethren, by whom the people were to be called together to take up arms and assert their rights. Such an act was not considered in old times as an act of treason towards the king. I was entrapped by Goldworthy and Edwards, in order, for some private purposes of their own, that they might have my life sworn away. I have no objection to tender my life in the service of my country; but let me at least, for the sake of my children, save my character from the disgrace of dying a traitor. For my children only do I feel, and when I think of them I am deprived of utterance; I can say no more."

James Ings was next asked what he had to say why he should not receive judgment to die? He replied:

"I have very little to say, my abilities will not allow me to speak. If Mr. Edwards had not got acquainted with me, I should not be here; he came to me, unfortunately, when I had no business, nor no means of getting a living for my family. It is only through Edwards that I shall lose my life. I do not mind dying, if you will let that man come forward, and die with me on the scaffold. It was through him that I was going to do that which I must allow was of a most disgraceful and inhuman nature. On the other hand, his majesty's ministers conspire together and impose laws to starve me and my family and fellow countrymen; and if I was going to assassinate these ministers, I do not see that it is so bad as starvation, in my opinion, my lord. The Manchester yeomanry rode in among, and cut down men, women, and children. They had their swords ground, and I had a sword ground also. I shall suffer, no doubt; but I hope my children will live to see justice done to their bleeding country."

John Thomas Brunt was next called upon, and spoke:

"My lords and gentlemen,—I am precluded from saying much. Whatever impression I made on the jury yesterday was knocked down by the solicitor-general, who appears to me, by his sophistical eloquence, to be capable of making the worst of crimes appear a virtue. Of all the infamous characters on earth, Edwards is the worst; and yet he has been kept altogether out of the view of the court. He it was that furnished the arms, and he it was that goaded us on to our own ruin." He next adverted to the conduct of lords Castlereagh and Sidmouth; "they," he said, "had been the cause of the death of millions, and although he admitted he had conspired to put such men out of the world, still he did not think that amounted to high-treason. In undertaking to kill lord Castlereagh, lord Sidmouth, and their fellow ministers, he did not expect to save his life—he was determined to die a martyr in his country's cause, and to avenge the innocent blood shed at Manchester." In conclusion, he said, "he was willing to suffer for the acts which he had contemplated; but it grieved him to think that he was to suffer for a crime of which he was innocent, viz. high-treason."

The prisoner spoke with great vehemence.

Richard Tidd was the next called upon. He spoke as follows:

"All I can say is, and I positively swear it, that the evidence that has come before you, with the exception of Captain Fitzclarence, is utterly false."

James Wilson, John Harrison, and John Shaw Strange said a few words each.

James Gilchrist.—"On the Wednesday evening at four o'clock, I knew nothing about this business. I was going to look for work, and had neither money nor bread. So I went to what I was told to be a supper of radicals. [Here the prisoner was overcome by his feelings.] At six o'clock I met C. Cooper, who was the only man I knew, and I borrowed a halfpenny of him, which, with another, enabled me to get a pennyworth of bread, and this I eat very sweet. I wish I may never come out of this place if I tell false. We then went into the stable and up-stairs, where there were some bread and cheese. I took an old sword and hewed down the loaf, of which others, who were as hungry as me, partook. I then asked what all these arms were about, and when I heard, I was so shocked, that I determined to get away as fast as I could. I served my king and country for twelve years, and this is the recompense. Oh, God! I have nothing more to say."

Charles Cooper protested his innocence.

Lord chief-justice Abbot pronounced sentence in the usual form.

The prisoners were then removed from the bar. They did not seem much affected, but departed with great firmness and resignation.

On Saturday the 29th, a privy council was held to receive the report of the proceedings under the special commission, at which his majesty and all the cabinet ministers were present; the judges who tried the prisoners also attended. The common sergeant having read over his notes, the council, after two hours deliberation, resolved that the execution of Arthur Thistlewood, John T. Brunt, James Ings, William Davidson, and Richard Tidd should take place on Monday the 1st of May, and that the six remaining prisoners should be respited during his majesty's pleasure.

During nearly the whole of the night preceding their execution, the wretched men slept soundly, and were only awakened by the unbarring of their cell doors to admit the ordinary, whose zeal to convert them from their avowed tenets of deism prompted him to visit the jail in the dead of the night.

On the arrival of the sheriffs and their attendants in the press-yard, the culprits were brought out, and from the disposition evinced by four of them, it was deemed prudent their arms should be pinioned in the usual way, before their irons were struck off.

Thistlewood came first, with his eyes fixed, as it were, abstracted in thought, and apparently lost to his situation.

Tidd walked next, and seemed somewhat affected by his situation. He tried, however, to assume an indifference to his fate, and was frequently rallied by Ings for his depression.

Ings came next, laughing without reserve.

Brunt next advanced, and with a sullen and morose air, surveyed the officers who were conducting him to his fate.

Davidson came last, with clasped hands and uplifted eyes, praying most devoutly; and the officers of the jail closed the procession.

On their arrival at the lodge, leading to the scaffold, a moment's pause took place, while the dreadful apparatus of death was adjusted without.

Thistlewood, who stood first, clasped his lips, and with a frown surveyed, from the door-way in which he stood, the awful preparation for his fate.

Tidd was next summoned to the scaffold.

Ings seized Tidd's hand at the moment he was going out, and exclaimed, with a burst of laughter, "Give us your hand! good bye!"

A tear stood in Tidd's eye, and his lips involuntarily muttered, "My wife and ——!"

Ings proceeded—"Come, my old cock-of-wax, keep up your spirits, it all will be over soon."

Tidd immediately squeezed his hand, and rushed towards the stairs leading to the scaffold. He was received with three cheers from the crowd, in which he made a faint effort to join.

A humane individual who stood by remonstrated with Brunt again, and beseeched him to ask pardon of God. Brunt, with a fierce and savage air, surveyed his adviser contemptuously, and exclaimed,—"What have I done? I have done nothing! what should I ask pardon for?"—"Well done, Brunt," exclaimed Ings, and was proceeding to sing,

"O! give me death or liberty!"

when he was summoned to the scaffold. He turned to Brunt, and with a smile upon his countenance, shook hands with him, and prepared to go.

While he stood on the edge of the steps, at the door of the jail, he said to Davis, one of the turnkeys, "Well, Mr. Davis, I am going to find out this great secret;" and then springing on the scaffold, exclaimed, "Good bye, gentlemen! here goes the remains of an unfortunate man."

Brunt now stood by himself, and muttered about the injustice of his fate; but he appeared to wish to ascend the scaffold next.

Davidson, however, was summoned before him.

Brunt now appeared considerably irritated, "I suppose," said he, "they are afraid I should say something to the people, because I spoke my mind on the trial."

The composure of Davidson, particularly on Sunday, on taking leave of his wife, was of the most extraordinary description. He declared that this day would be the happiest of his life.

The conduct of Ings, too, violent and hardened as it had been, was interrupted once by something like a feeling of nature. On entering the lodge, before he ascended the scaffold, some person told him to be firm; when he ejaculated, "Firm! I am firm; but we have children, sir."

The last act of Brunt was to take a pinch of snuff from a paper which he held in his hand. He stooped to put it to his nose, and this he was only able to effect by pushing up the night-cap which hung over his face. He also threw off his shoes.

Ings, when the handkerchief was tied over his eyes, cried out, "I hope, Mr. Cotton, you will give me a good character." Mr. Cotton bowed. Ings then commenced swinging about in his hand an old night-cap, in the most careless manner.

Tidd's lips were in motion just before he was turned off, as if in prayer. Davidson was in the most fervent prayer.

Exactly half an hour after they had been turned off, the order was given to cut the bodies down, and the ceremony of decapitation provoked a lively expression of horror and disgust from the assembled multitude.

The streets in the neighbourhood of the dismal spectacle were lined with a strong cavalry force; and a very considerable addition of military of all arms, was made to the usual garrison of the metropolis during the trials, and up to the end of the execution.

THOMAS, EARL OF STRAFFORD,

FOR HIGH-TREASON, MARCH 12, 1643.

In the parliament which began the 3d of November, 1640, Mr. Pym, one of the chief of the country or patriotic party in the house of commons, moved on the 11th, that the doors might immediately be locked, as he had matters of importance to communicate to the house; which being agreed to, he made a severe speech against the earl of Strafford, declaring he was the greatest enemy to liberty, and the greatest promoter of tyranny and arbitrary power, that any age had produced; and being seconded by some gentlemen of the same party, it was resolved to impeach the earl of high-treason.

On the 25th of November, Mr. Pym carried up nine articles against the earl; and on the 30th of January, 1640, they sent up twenty-eight special articles against him, in which the former were comprehended:—

1. They charge, That the earl being president of the north, did on the 21st of March, 8 Car. produce a commission, with instructions, directed to himself and others, empowering them to determine all misdemeanors and offences in the north; and particularly, they were appointed to proceed according to the course of the star-chamber against divers offences; and to proceed according to the course of the court of chancery concerning lands, and grant injunctions to the common law courts: and that he exercised those powers over the persons and estates of several, depriving them of their estates and possessions, and fined and imprisoned them, to their utter ruin; and particularly sir Conyers Darcy and sir John Bouchier: That he procured directions, that no prohibition should be granted; and that none should be discharged on a habeas corpus, till they had performed their decrees; and that on the 13th of the king, he caused the commission to be renewed, with additional instructions.

2. That, soon after his procuring the first commission, he declared at the assizes at York, that since some of the justices of peace were all for law, they should find the king's little finger heavier than the loins of the law, in order to terrify the said justices, that they should not execute the laws.

3. That, in a speech to the nobility of Ireland, and the corporation of Dublin, the earl declared Ireland was a conquered kingdom; that the king might do what he pleased with them; their charters were worth nothing, and bound the king no farther than he pleased.

4. That Richard earl of Cork, having commenced a suit for the recovery of his possessions, of which he was dispossessed by an order of council, the earl threatened to imprison him, if he did not drop his suit; and said he would have neither the law nor lawyers dispute his orders; adding, that he would make the earl of Cork and all Ireland know, that as long as he had the government, an act of state should be as binding to that kingdom as an act of parliament.

5. And that he did accordingly exercise his power on the goods, inheritances, liberties, and lives of the subjects there, to the subversion of the laws of that kingdom; particularly, that he did, in time of full peace, cause the lord Mountnorris to be condemned to death by a council of war; and caused sentence of death to be pronounced against another person (whose name was unknown) at Dublin, and he was executed in pursuance of it.

6. That, on a paper petition, he caused the said lord Mountnorris to be disseised of his manor of Tymore.

7. That he caused the case of tenures on defective titles to be drawn up, procuring the resolutions of the judges thereupon; by colour of which he caused the lord Thomas Dillon and divers others, to be dispossessed of their freeholds, to the ruin of many hundred families.

8. That, on the petition of sir John Gifford, he made an order against Adam Viscount Loftus, lord chancellor of Ireland, and, under pretence of disobedience to the said order, caused him to be imprisoned, and to surrender the great seal: That he imprisoned the earl of Kildare, in order to make him submit his title to the manor of Castle-Leigh to his pleasure, and kept him in prison a year, refusing to enlarge him, though directed to do it by his majesty's letters: That he caused an order of council to be entered against dame Mary Hibbots, although a major part of the council was for the lady; and forced her to relinquish her estate, which was soon after conveyed to sir Robert Meredith, to the use of the earl of Strafford; and that he imprisoned several others, on pretence of disobedience to his orders, for pretended debts, titles to lands, &c. in an arbitrary extra-judicial course, upon paper petitions.

9. That he granted a commission to several bishops, their respective chancellors and officers, to commit the meaner sort of people to prison, who should not obey their decrees.

10. That he farmed the customs of Ireland, and, to advance his gain, caused the native commodities to be over-rated; and the customs, which formerly were but a twentieth part of the value of the goods, were now a fourth, a fifth, and some of them a third part of the value.

11. That he extorted great sums from the subject, for licences to export divers sorts of goods.

12. That he issued a proclamation against the importation of tobacco, and then caused great quantities to be imported for his own use; and would not permit the merchants to vend their tobacco, unless they would let him have it at his own price: That he issued another proclamation, commanding all tobacco to be seized that was not sealed by his agents; and those on whom unsealed tobacco was found, were fined, whipped, imprisoned, or pilloried; by which means he gained a hundred thousand pounds; and though he raised the customs on other articles, he lessened them in this, from six-pence to three-pence a pound, for his own profit; and that, by the like undue means, he constituted divers other monopolies.

13. That he commanded the Irish, by proclamation, to work their flax and yarn into thread, in a manner they were unskilled in, and seized the flax that was otherwise wrought; whereby he gained the sole sale of that native commodity.

14. That he imposed an unlawful oath on the owners and masters of ships, by proclamation requiring them to give an account of their lading, their owners, from whence they came, and whither bound.

15. That contriving to bring the realm of Ireland under his tyranny, he imposed great sums on the town of Baltimore, and divers other places, which he levied by troops of soldiers: That particularly he empowered Robert Saville, sergeant-at-arms, and several captains, to quarter soldiers on such of the inhabitants as would not act conformable to his orders: That he dispossessed Richard Butler, and above a hundred families, of their estates by a military force, imprisoning the proprietors, till he compelled them to relinquish their respective interests, levying war against his majesty, and his liege people of that kingdom.

16. That, to continue his oppression on the subjects of Ireland, he prevailed on his majesty not to suffer any complaints to be received in England; and issued a proclamation, prohibiting all who had any estates or offices in Ireland to depart the kingdom without license; and imprisoned several that came over to England to complain against him.

17. That he affirmed his majesty was so well pleased with his army in Ireland, and the consequences it produced, that he would make it a pattern for all his three kingdoms.

18. That in order to make the papists of England and Ireland to depend on him, he restored several religious houses to their pretended owners; particularly two in Dublin, which had been assigned to the university there, which were now employed in the exercise of the popish religion. That he raised an army, of which seven thousand were papists; and that, to engage this new army to him, he paid them duly, and permitted them to exercise their religion; whereas the old army were kept without their pay for a whole year: And, that being a commissioner for compounding forfeitures for recusancy, in the northern counties of England, he compounded with the recusants there at very low rates, and discharged them from all process, in order to engage them to him.

19. That he imposed an oath on the subjects of Ireland, requiring them to swear, that they would not protest against any of his majesty's commands, but submit obediently to them, fining, imprisoning, and banishing the refusers; and particularly, that he fined Henry Stewart and his wife £5000 apiece, and imprisoned them for non-payment: That he declared the said oath did not only oblige them in point of allegiance, but to the ceremonies and government of the church established, or to be established by his majesty; and gave out that those who refused to take it, he would prosecute to blood.

20. That he endeavoured to create in his majesty an ill opinion of the Scots, and excited him to an offensive war against them, since the pacification: that he was the chief incendiary, declaring that the Scots' demands in parliament were a sufficient cause to make war upon them; that they were rebels and traitors; and if his majesty pleased, he would root them out of Ireland, except they took the oath in the preceding article; and that he caused several Scottish ships to be seized, to engage the kingdoms in war.

21. That, having incited his majesty to carry on an offensive war against Scotland, he advised him to call a parliament, but that if they did not concur in the earl's mischievous projects, they should be dissolved, and money raised on the subjects by force; declaring in council, that he would serve his majesty any other way, in case the parliament did not supply him.

22. That he procured the parliament of Ireland to declare they would assist the king against the Scots; and conspire with sir George Ratcliffe to employ the army of Irish papists he had raised, to the subversion of the government of England; declaring that, if the parliament would not supply his majesty, he was at liberty to use his prerogative for what he needed; and that he would be acquitted both by God and man for so doing.

23. That, the last parliament taking the grievances of the kingdom into consideration, the earl and archbishop Laud advised his majesty, by several speeches and messages, to urge the commons to grant a supply for the war against Scotland, before they entered on their grievances: and that a demand being made by his majesty of twelve subsidies, in lieu of ship-money; while the commons were debating on the supply, the said earl and the archbishop moved his majesty to dissolve that parliament; and the earl then incensed his majesty against the members, telling him, "they had refused to supply him, and that his majesty having tried the affections of his people, and been refused, he was absolved from all rules of government, and that he had an army in Ireland, which he might employ to reduce this kingdom."

24. That he falsely declared to others of the privy-council, that the parliament having forsaken the king, and denied him a supply, they had given him

an advantage to supply himself by such other ways as he saw fit; and that he was not to suffer himself to be mastered by the frowardness of his people. And that the earl, the archbishop, and the lord-keeper Finch published a scandalous book in his majesty's name, entitled, "The causes that moved his majesty to dissolve the last parliament," full of bitter invectives against the commons.

25. That he advised the levying of ship-money, and procured the sheriffs to be prosecuted for not levying it, and several to be imprisoned for not paying it; and advised, that the lord-mayor of London, the aldermen, &c. should be summoned before the council, to give an account of their proceedings in levying ship-money, and concerning the loan of a hundred thousand pounds demanded of them by the king; and on their refusing to certify who were fit to lend, the earl said, they deserved to be fined; there was no good to be done with them till they were laid by the heels, and some of the aldermen hanged up.

26. That he caused £130,000 belonging to his majesty's subjects and foreigners, to be seized in the mint; and when it was represented what a prejudice this would be to the kingdom, said, that the city had dealt undutifully, and were readier to help the rebels than his majesty; and that it was the practice of other princes to use such money to serve their occasions; that the French king used to send commissaries of horse to take account of men's estates, and levy money on them by force; and directing his discourse to the lord Cottington, said, this was a course worthy to be considered by his lordship.

27. That, being lieutenant-general in the north, he imposed a tax of eightpence a day for every soldier of the militia in that county, and levied it by force, declaring that those who refused it were guilty of little less than high-treason.

28. That, receiving advice of the Scottish army's bending its march towards England, he did not provide for the defence of Newcastle; but suffered it to fall into their hands, to incense the English against the Scots; and in order to engage the two nations in a bloody war, he ordered the lord Conway to fight the Scots at the passage of the Tine; though he had represented he had not force sufficient to encounter them; whereby he betrayed his majesty's army to apparent danger and loss; all of which the earl had done, with an intent to create a division between his majesty and his people, and to destroy him and his kingdoms; and for which they impeached him of high-treason.—

The place appointed for the trial, was the great hall in Westminster, where there was a throne erected for the king, on each side thereof a cabinet enclosed about with boards, and before with a terrace. Before that, were the seats of the lords of the upper house, and sacks of wool for the judges; before them ten stages of seats, extending further than the midst of the hall, for the gentlemen of the house of commons; at the end of all was a desk closed about, and set apart for the lord-lieutenant and his counsel.

Monday morning, about seven of the clock, he came from the Tower, accompanied by six barges, wherein were one hundred soldiers of the Tower, all with partisans for his guard, and fifty pair of oars. At his landing at Westminster, he was attended by two hundred of the trained bands, and went in guarded by them into the hall. The entries at Whitehall, King-street, and Westminster, were guarded by the constable and watchmen, from four of the clock in the morning, to keep away all low and idle persons.

The king, queen, and prince came to the house about nine of the clock, but kept themselves private within their closets, only the prince came out once or twice to the cloth of the state; so that the king saw and heard all that passed, but was seen by none. Some gave the reason of this from the received practice of England in such cases: others say, that the lords did entreat the king either to be absent, or to be there privately, lest it might be

pretended hereafter, that his being there was for no other purpose than to interrupt the course of justice: others assert, that the king was not willing to be accessary to the process till it came to his part, but rather chose to be present, that he might note and understand what violence, rigour, or injustice happened.

When the lieutenant entered the hall, the porter of the hall (whose office it is) asked Mr. Maxwell, whether the axe should be carried before him or no? who answered, that the king had expressly forbidden it; nor was it the custom of England to use that ceremony, but only when the party accused was to be put upon his jury. Those of the upper house did sit with their heads covered, those of the lower house uncovered. The bishops upon the Saturday before voluntarily declined the giving of their suffrages in matters criminal, and of that nature, according to the provisions of the canon law, and practice of the kingdom to this day, and therefore would not be present; yet withal they gave in a protestation, that their absence should not prejudice them in that or any other of their privileges, as lords spiritual in parliament, which was accepted.

The earl of Arundel, as lord-high-steward of England, sat apart by himself, and at the lieutenant's entry commanded the house to proceed. Mr. Pym, being speaker of the committee for his accusation, gave in the same articles which were presented at his last hearing before the upper house, which being read, his supplies were subjoined and read also; the very same which were presented before in the upper house. Some give the reason of this, because the lower house had not heard those accusations in public before; others, that the formality of the process required no less: however, that day was spent in that exercise.

The queen went from the house about eleven of the clock; the king and prince staid till the meeting was dissolved, which was after two. The lieutenant was sent to the Tower by his guard, and appointed to return upon Tuesday, at nine of the clock in the morning. The crowd of people was neither great nor troublesome; all of them saluted him, and he them with great humility and courtesy, both at his entrance and at his return; how ridiculous then was the following rumour about the malice and discontent of the multitude: "That if he pass the stroke of justice, they will tear him in pieces:" yet we see there is more in rumour than in sight and appearance, and in this report, as in all others of this nature, more is thrust upon the vulgar (who seem as fearful of punishment as exposed to it, in spite of their great number) than they justly deserve.

On Tuesday, in the morning, he came accompanied as before to Westminster; and having staid in the exchequer-chamber till nine of the clock, the king, queen, and prince came, as before upon the first day.

Then Mr. Pym, being called for, aggravated the charge, which was given the day before, by a very ample speech. The main points were, that it was treason far beyond the reach of words, that he, the lieutenant, a native subject, and a peer of England, the prime governor of Ireland, the commander of his majesty's forces, and a Protestant in religion, should have in such an impious and gross manner recompensed his majesty's favours, abused his goodness, and drawn all his dominions into hazard and peril of their religion, lives, goods, and privileges; that one of these faults alone had been enough, and too much, for the fulfilling of the exorbitancy and wickedness of any one man; and that no punishment could be thought of sufficient to expiate crimes of such a transcendent nature.

The lieutenant spoke in his own defence, and that with such eloquence, that his enemies were affected.

He recounted his services done to the king and crown of England, his endeavours for the advancement, as well of the honour as interest of both kingdoms in general, but in particular that of Ireland; how he had advanced the king's revenues there, restored the church's maintenance, suppressed the

outlaws, established obedience to royal authority, and overawed the tyranny and usurpation of greater ones over the commons. And for the effecting of all these actions, he mentioned himself the most weak and meanest instrument.

Mr. Pym, after the close of his speech, told him that there were three new articles adjoined (by and after search) to his charge; and desired that he might presently reply to the same.

Whereunto the lieutenant answered, it was very strange that after the close of the process, and when matters were come to be scanned, and examined by proof, that any new charge should be given in; yet lest he should seem to decline the maintainance of his own innocency, and the just defence of his honour, he was most willing to hear them and have them alleged, provided that a convenient time might be assigned him to make his replies against them, as he had done to the others given in before.

But Mr. Pym excepted against this, and told him that the house did conceive it to be dangerous to grant any farther prorogation.

Upon this, the lords of the upper house (who did not think it fit as yet to voice any particular in the audience of the house of commons) retired, and after some stay, they returned and declared, that they had found the lieutenant's suit to be equitable, in desiring further time for answering; yet, seeing that the articles themselves, neither for number or weight, seemed to be of sufficient importance to prevent his giving a present answer, they thought it fitting to grant no delay.

The names of his accusers were, Pym, Glyn, Maynard, Whitlock, lord Digby, St. John, Palmers, sir Walter, Earles, Stroud, Selden, Hampden, &c. One of these began, and the rest, after their colleague had done, followed in their turn; so that he had all of them to contend against, though his spirits were much exhausted.

On Thursday he was charged with the second expression; "That he said Ireland was a conquered kingdom, and that the king might prescribe them what law he pleased."

On Friday the two other expressions were followed: that he said, "He would not suffer his ordinances to be disputed by lawyers, before inferior judicatories, and that he would make an act of state equivalent to an act of parliament."

Lord Cork declared upon his oath, that the lieutenant had caused to be interlined an ordinance against himself, and had caused some words to be scraped out; which words were, notwithstanding, still found to be in the sentence, by an authentic copy under the hand of sir Paul Davidson, clerk to the council board of Ireland; that he had advanced a groom of his to be a preacher; who, by a testimony from the university of Dublin, he verified to have been a master of arts ten or twelve years before his advancement.

On Tuesday they passed by the seventh article, and the two first parts of the eighth, about the lady Hibbot's land; that he had violently thrust her from her possession by this summary way of justice, and afterwards purchased the land to his own house, by borrowing the name of sir Robert Meredith. The testimony of the gentlewoman's son was adduced, of lord Cork, and lord Mountnorris.

After the ninth article was passed, against the commission issued in favour of the bishop of Downe and Connor; upon Wednesday Mr. Glyn proceeded to the tenth article. For proof, they produced the lease of the duke of Buckingham, which was read and compared with that lease to the dutchess of Buckingham, and some differences shown, arising to the sum of two thousand pounds in the duke's lease; only the moiety of concealed and forfeited goods were due to him, but the whole goods to the dutchess in her lease.

Witnesses were examined.

First, sir James Hay, who deposed, that the earl of Carlisle had an ad

vantage of one thousand six hundred pounds per annum by his lease of wines.

Secondly, the lord Ranelagh, who deposed, that by the inspection of the books of accounts, he had found the custom to be anno 1636 thirty-six thousand pounds, anno 1637 thirty-nine thousand pounds, anno 1638 fifty-four thousand pounds, anno 1639 fifty-nine thousand pounds.

The same day Mr. Palmer charged, that the lord Strafford, having by a tyrannical power inverted the ordinary course of justice, and given immediate sentence upon the lands and goods of the king's subjects, under pretence of disobedience, had used a military way for redressing of the contempt, and laid soldiers upon the lands and goods of the king's subjects, to their utter ruin.

The lord-lieutenant's reply was, that in all the course of his life, he had intended nothing more than the preservation of the lives, goods, and welfare of the king's subjects; and that he dared profess, that under no other deputy had there been a more free and uninterrupted course of justice.

To this the lord Dillon, sir Adam Loftus, and sir Arthur Terringham deposed; the last of whom told, that in Falkland's time, he knew twenty soldiers quartered upon a man for refusing to pay sixteen shillings sterling.

The same day Mr. Whitlock rested on the 19th article, about the oath administered to the Scots in Ireland, and for proof of this, sir James Mountgomery was produced; who declared at large how that oath was contrived. Sir Robert Maxwell of Orchiardon, who spake to the same purpose. Sir John Clotworthy, who declared that a great number had fled the kingdom for fear of that oath. And Mr. Samuel, who deposed, that upon the 10th of October, 1638, he heard the deputy say these words, "That if he returned, he would root them out stock and branch."

The proofs for the Scots charges were these:

Lord Traquair, who was very favourable to the lord-lieutenant, and spake nothing to his disadvantage but what was extorted from him, he admitted, that when he gave in the demands, he heard Strafford say, "that it was high time for the king to put himself into a posture of war;" but that first all the council of England said the same as well as he. Secondly, that it was a double supposition: 1. That the demands were truly given in: 2. That there was no other remedy left but arms, to reduce them.

The earl of Morton's testimony (being sick himself) was produced, and it was one and the same with the article.

Sir Henry Vane was examined, who declared, that he had heard the lieutenant to advise the king to an offensive war, when his own judgment was for a defensive.

The testimony of the earl of Northumberland was produced, which was the very same with sir Henry Vane's.

The treasurer of England deposed the same with Traquair.

One Beane, from Ireland, said, that he had known ships seized there; but by whose procurement or warrant he knew not.

To the articles about England:

Sir Robert King and the lord Ranelagh deposed, that sir Robert King and the lord Ranelagh had heard sir George Ratcliff speak those words in the article.

The primate's testimony (who was sick) was the same with the article.

The lord Conway deposed the same with the article.

Sir Henry Vane deposed, he had heard those words spoken at the council-board.

For the words spoken after the parliament.

To the first, sir Thomas Jermyne, lord Newburg, earl of Bristol, and earl of Holland, were examined. Bristol spoke plainly, but Holland's testimony was reserved.

Here some of the lieutenant's friends showed themselves.

1. Lord Satil, who desired of sir Henry Vane to know whether he said their, or this, or that kingdom; and withal said, it was very hard to condemn a man for treason upon such circumstances.

2. The earl of Southampton desired to know, whether sir Henry Vane would swear those words positively or not. Sir Henry Vane said, positively either them or the like. The earl replied, that under favour "those or the like," could not be positive.

3. The earl of Clare desired to know what could be meant by this kingdom; for his part (he said) he thought it meant of the kingdom of Scotland, to which the word this might very well be relative, that kingdom being only mentioned in the preceding discourse.

Upon Wednesday, Whitlock charged thus:—

First, That he had advised the king to a rigorous and unlawful exaction of ship-money.

Secondly, That he had given counsel, that if the sheriffs should refuse their best endeavours and assistance to that effect, they should be sent for, and fined by the star-chamber, and imprisoned.

Thirdly, That when the aldermen of London had in all humility represented the causes why the ship-money could not be collected amongst them, and had given in the reasons why they refused to give in a list of their names, within their city, who were able to afford the loan-money; he in a contemptuous and tyrannical manner, in the face of the council-board, had said to the king: "Sir, these men, because of their obstinacy and frowardness, deserved very well to be fined, ransomed, and laid by the heels; and it will never go well with your service, until some of them be hanged up for examples to others."

The evidence was as follows:—

The bishop of London, lord-treasurer, who declared, that he remembered the words very well, that the lord-lieutenant had advised the king to cause the ship-money to be gathered in; but he remembered withal, that both himself and all the council had done the like; and that it was upon a present necessity, and defect of money for entertaining the army, which (the condition of the times considered) they all conceived was by any means to be kept on foot.

Alderman Wiseman declared, that upon an humble remonstrance made to the council-board, the city would take it ill, if a tax-roll should be delivered of their estates, who were thought able for the loan-money; the lord Strafford said, they ought to be fined, ransomed, and laid by the heels: but as to hanging them up, he heard not a word about it.

The earl of Berkshire declared that the lord Strafford had said, that upon the refusal of such a service enjoined by the king's peremptory command, it was his opinion they might be fined.

Alderman Garway attested the preceding words; and withal added, that the lord-lieutenant, to his best remembrance, had said, "it were well for the king's service if some of them were hanged up."

Then they went to the twenty-sixth article, and the proofs were:—

Sir Thomas Edwards, who declared, that in discourse with the lord Strafford, having remonstrated unto him that their goods were seized on beyond seas, because of the money taken out of the mint, he told him, "that if the Londoners suffered it, it was deservedly, because they had refused the king a small loan of money upon good security; and that he thought them more ready to help the rebels than the king."

Mr. Palmer declared that he spake something about the king of France; but whether with relation to England, or not, he did not remember.

Sir William Parkise attested in the same words; and withal, that the lord Cottington was then present, and could declare the whole business.

Sir Ralph Freeman declared, that in a discourse with the lord Strafford, he had said that the servants in the mint-house would refuse to work the copper

money; and he replied, "that then it were well to send those servants to the house of correction."

Upon Friday morning, about eight of the clock, the lieutenant of the tower, and my lord's chamber-groom came to the hall, and gave information to the house upon oath, that the lord Strafford was taken with an exceeding great pain, and fit of the stone, and could not upon any conditions stir out of his bed.

Mr. Glyn replied, that it was a token of his wilfulness, not his weakness, that he had not sent a doctor to testify the same.

The lord-steward made answer, that a doctor could not be had so soon in a morning, nor was it possible for any physician to give a certain judgment concerning a man's disability by the stone, because there are no outward symptoms that appear.

Mr. Glyn excepted, that if he did not appear upon Saturday morning, he should lose the privilege to speak in his own defence afterwards, and they permitted to proceed.

The lord-steward replied, that the lords had appointed four of their number to go to the Tower, and learn the just cause of his stay; and if by any means he were able, he should be obliged to come then: if not, humanity and common equity would excuse him.

Upon Saturday morning he presented himself at the bar, where he expected nothing but repetitions of charges and defences; but meanwhile Mr. Glyn preferred some new proofs concerning the two-and-twentieth article, which the noble lord refused, alleging the process was closed. Mr. Glyn answered, the process is not closed, as long as the business stands unrepealed; and that it did not become a prisoner at the bar to pressume a method of proceeding to the house of commons.

It was answered by the lord-lieutenant, that he thought it stood him in hand as nearly to maintain his life, as it did any to pursue him for it; yet he was willing they should bring in new proofs, provided that he might have time to make new replies, and withal use some new witnesses in some articles that concern his justification.

The lord Newark, upon these motions, desired the house might be adjourned; after two hours delay, and a hot conflict with the lords, they returned, and the lord-steward commanded the order to be read, which consisted of two articles:

First, That as it was granted unto them to bring in proofs concerning the two-and-twentieth article; so it was to the lord Strafford to make his replies, and use his witnesses concerning the same.

Secondly, That if they went to no more articles, no more should the lord Strafford; but if they did, that he might pitch upon any one article as he pleased.

After prolonged debates and discussion, lord Strafford replied as follows:—

My lords,—This day I stand before you charged with high-treason; the burden is heavy, yet far the more, in that it hath borrowed the patrociny of the house of commons; if they were not interested, I might express a no less easy, than I do a safe issue and good success to the business: but let neither my weakness plead my innocence, nor their power my guilt. If your lordships will conceive of my defences, as they are in themselves, without reference to either (and I shall endeavour so to present them), I hope to go away from hence as clearly justified, as I am now in the testimony of a good conscience by myself. My lords, I have all along my charge watched to see that poisoned arrow of treason, that some men would fain have to be feathered in my heart, and that deadly cup of wine, that hath so intoxicated some petty mis-alleged errors, as to put them in the elevation of high-treason; but in truth it hath not been my quickness to discern any such monster yet within my breast, though now perhaps, by a sinistrous information, stick-

ing to my clothes. They tell me of a twofold treason, one against the statute, another by the common law; this direct, that consecutive; this individual, that accumulative; this in itself, that by way of construction.

For the first, I must and do acknowledge that if I had the least suspicion of my own guilt, I would spare your lordships the pains, cast the first stone at myself, and pass sentence of condemnation against myself; and whether it be so or not, I refer myself to your lordships' judgment and declaration. You, and only you (under the favour and protection of my gracious master), are my judges; under favour, none of the commons are my peers, nor can they be my judges. I shall ever celebrate the providence and wisdom of your noble ancestors who have put the keys of life and death (so far as concerns you and your posterity) into your own hands, not into the hands of your inferiors; none but your own selves know the rate of your noble blood, none but yourselves must hold the balance in dispensing the same.

I shall proceed in repeating my defences, as they are reducible to these two main points of treason: and for treason against the statute (which is the only treason in effect), nothing is alleged for that but the fifteenth, two-and-twentieth, and twenty-seventh articles. (Here he brought the sum of all his replies made to these three articles before, and almost in the same words as before; only that testimony of sir Henry Vane's because it seemed pressing, he stood upon it, and alleged five reasons for the nullifying thereof.)

First, That it was but a single testimony, and would not make faith in a matter of debt, much less in a matter of life and death; yea, that it was expressly against the statute to impeach (much less to condemn) him upon high-treason, unless under the testimony of two famous witnesses.

Secondly, That he was dubious in it, and expressed it with an "as I do remember, and such or such like words."

Thirdly, That all the council of eight, except himself, disclaim the words; as if by a singular providence they had taken hold of his ears only.

Fourthly, That at that time the king had levied no forces in Ireland, and therefore he could not be possibly so impudent as to say to the king, "That he had an army there, which he might employ for the reducing this kingdom."

Fifthly, That he had proved by witnesses beyond all exceptions (marquis Hamilton, the lord-treasurer, the earl of Northumberland, lord Cottington, sir William Pennyman, and sir Arthur Terringham), that there was never the least intention to land those forces in England.

[He went on:]—

So much for the articles that concern individual treason.

To make up the constructive treason, or treason by way of accumulation, many articles are brought against me, as if in a heap of felonies or misdemeanors (for in their conceit they reach no higher) some prolific seed, apt to produce what is treasonable, could lurk. Here I am charged to have designed the ruin and overthrow both of religion and state. The first seemeth rather to have been used to make me odious than guilty, for there is not the least proof alleged concerning my confederacy with the popish faction, nor could there be any indeed; never a servant in authority beneath the king my master was ever more hated and maligned by those men than myself, and that for an impartial and strict execution of the laws against them.

Here your lordships may observe that the greater number of the witnesses used against me, either from Ireland or from Yorkshire, were men of that religion: but for my resolution (I thank God), I am ready every hour of the day to seal my disaffection to the church of Rome with my dearest blood.

But, my lords, give me leave here to pour forth the grief of my soul before you: these proceedings against me seem to be exceeding rigorous, and to have more of prejudice than equity; that upon a supposed charge of my hypocrisy or errors in religion, I should be made so monstrously odious to three kingdoms; a great many thousand eyes have seen my accusations, whose ears shall never hear, that when it came to the upshot I was never accused

of them. Is this fair dealing among Christians? But I have lost nothing by that: popular applause was ever nothing in my conceit; the uprightness and integrity of a good conscience was, and ever shall be, my continual feast; and if I can be justified in your lordships' judgments from this grand imputation (as I hope I now am, seeing these gentlemen have thrown down the bucklers), I shall account myself justified by the whole kingdom, because by you, who are the epitome, the better part, yea, the very soul and life of the kingdom.

As for my design against the state, I dare plead as much innocency here as in matter of my religion: I have ever admired the wisdom of our ancestors, who have so fixed the pillars of this monarchy, that each of them keep a due proportion and measure with the other, and have so handsomely tied up the nerves and sinews of the state, that the straining of any one may bring danger and sorrow to the whole economy. The prerogative of the crown, and the propriety of the subject, have such mutual relations, this takes protection from that; that foundation and nourishment from this: and as on the lute, if any one string be too high or too lowly wound up, you have lost the harmony; so here the excess of a prerogative is oppression; of pretended liberty in the subject, disorder and anarchy. The prerogative must be used as God does his omnipotency, upon extraordinary occasions; the laws (answerable to that *Potentia ligata in Creaturis*) must have place at other times. And yet there must be a prerogative, if there must be extraordinary occasions; the propriety of the subject is ever to be maintained, if it go in equal pace with this: they are fellows and companions, that are and ever must be inseparable in a well-governed kingdom; and no way so fitting, so natural to nourish and entertain both, as the frequent use of parliaments: by those a commerce and acquaintance is kept betwixt the king and subject. These thoughts have gone along with me these fourteen years of my public employments, and shall, God willing, to my grave: God, his majesty, and my own conscience, yea, and all those who have been most accessory to my inward thoughts and opinions, can bear me witness that I ever did inculcate this, that the happiness of a kingdom consists in a just poise of the king's prerogative and the subjects' liberty; and that things would never go well till they went hand in hand together.

I thank God for it, by my master's favour, and the providence of my ancestors, I have an estate, which so interesteth me in the commonwealth, that I have no great mind to be a slave, but a subject; nor could I wish the cards to be shuffled over again, upon hopes to fall upon a better set: nor did I ever nourish such base mercenary thoughts, as to become a pander to the tyranny and ambition of the greatest man living. No, I have, and ever shall aim at a fair, but a bounded liberty; remembering always that I am a freeman, yet a subject; that I have a right, but under a monarch. But it hath been my misfortune now, when I am gray-headed, to be charged by the mistakers of the times, who are now so highly bent, that all appears to them to be in the extreme for monarchy, which is not for themselves. Hence it is, that designs, words, yea, intentions, are brought out for real demonstrations for my misdemeanors: such a multiplying-glass is a prejudicate opinion!

The articles contain expressions and actions: my expressions either in Ireland or England, my actions either before or after these late stirs.—

In this order he went through the whole charge, from the first article to the last, in an excellent method, and repeated all the sums and heads of what was spoken by him before; only added in the twenty-eighth article, if that one article had been proved against him, it contained more weighty matter than all the charge besides; and it had not only been treason in him, but also villany, to have betrayed the trust of his majesty's army. Yet because the gentlemen had been sparing (by reason of the times) to insist upon that article, though it might concern him much, he resolved to keep the same method and not utter the least expression that might seem to disturb the happy agree

ment intended, though he wished the same might deceive his expectation: only thus much he admired, how himself, being an incendiary against the Scots in the twenty-third article, is now become their confederate in the twenty-eighth article; or how he could be charged for betraying Newcastle, and for fighting with the Scots at Newborne too, seeing with them was no possible means for betraying the town, but to hinder their passage thither.

That he never advised war farther, than (in his poor judgment) concerned the very life of the king's authority, and the safety and honour of his kingdoms: nor saw he what advantage could be made by a war in Scotland, where nothing could be gained but many hard blows. For his part, he honoured the nation, but he wished they might be ever under their own climate, and had no desire they should be too well acquainted with the better soil of England: but he thought that article had been added in just, or as a supernumerary; and he very little suspected to be reckoned a confederate with the Scots, and wished (as he hoped it was) that every Englishman were as free from that imputation as himself; closing his defence with this speech:—

My lords, you see what may be alleged for this constructive, rather destructive treason. For my part, I have not the judgment to conceive that such a treason is agreeable either with the fundamental grounds of reason or law; not of reason, for how can that be treason in the lump or mass which is not so in any of the parts? Or how can that make a thing treasonable which in itself is not so? Not of law, since neither statute, common law, nor practice hath from the beginning of this government ever mentioned such a thing: and where, my lords, hath this fire, without the least appearance of any smoke, lain hid so many hundred years, and now breaks forth into a violent flame to destroy me and my posterity from the earth? My lords, do we not live by laws, and must we be punished by laws before they be made? Far better were it to live by no laws at all, but to be governed by those characters of discretion and virtue that nature hath stamped in us, than to put this necessity of divination upon a man, and to accuse him of the breach of law before it be a law at all. If a waterman upon the Thames split his boat by grating upon an anchor, and the same have a buoy appending to it, he is to charge his own inobservance: but if it hath none, the owner of the anchor is to pay the loss.

My lords, if this crime, which they call arbitrary treason, had been marked by any discerner of the law, the ignorance thereof should be no excuse for me; but if there be no law at all, how can it in rigour or strictness itself condemn me? Beware you do not awake these sleeping lions, by the searching out some neglected moth-eaten records, they may one day tear you and your posterity in pieces: it was your ancestors' care to chain them up within the barricadoes of statutes; be not you ambitious to be more skilful and curious than your forefathers in the art of killing.

My lords, it is my present misfortune, for ever yours; and it is not the smallest part of my grief, that not the crime of treason, but my other sins (which are exceeding many) have been presented to me before this bar; and except your lordships' wisdoms provide for it, it may be, the shedding of my blood may make way for the tracing of yours. You, your estates, your posterities lie at the stake. If such learned gentlemen as these, whose tongues are well acquainted with such proceedings, shall be started out against you; if your friends, your counsel denied access unto you; if your professed enemies admitted to witness against you; if every word, intention, or circumstance of yours be sifted and alleged as treasonable, not because of a statute, but because of a consequence, or construction of lawyers pieced up in a high rhetorical strain, and a number of supposed probabilities; I leave it to your lordships' consideration, to foresee what may be the issue of such dangerous and recent precedents.

These gentlemen tell me they speak in defence of the commonwealth against my arbitrary laws; give me leave to say, I speak in defence of the

commonwealth against their arbitrary treason: for if this latitude be admitted, what prejudice shall follow to king and country, if you and your posterity be by the same disenabled from the greatest affairs of the kingdom? For my poor self, were it not for your lordships' interest, and the interest of a saint in heaven, who hath left me here two pledges on earth (at this his breath stopt, and he shed tears abundantly in mentioning his wife, which moved his very enemies to compassion), I should never take the pains to keep up this ruinous cottage of mine; it is loaded with such infirmities, that, in truth, I have no great pleasure to carry it about me any longer; nor could I ever leave it in a better time that this, when I hope the better part of the world would perhaps think, that by this my misfortune I had given a testimony of my integrity to God, my king, and country. I thank God, I count not the afflictions of this present life comparable to that glory which is to be revealed in the time to come.

My lords! my lords! my lords! Something more I had to say, but my voice and spirits fail me; only I do in all humility and submission cast myself down before your lordships' feet, and desire that I might be a pharos to keep you from shipwreck; do not put such rocks in your own way, which no prudence, no circumspection can eschew or satisfy, but by your utter ruin. And whether your judgments in my case (I wish it were not the case of you all) be either for life or death, it shall be righteous in my eyes, and received with a *Te Deum laudamus* (and he then lifted up his eyes, and said), *In te Domine confido, ne confundar in æternum.*—

The reply of the commons did not occupy much time; they proceeded article by article, in the same words and tenor as before; only some remarkable flashes of eloquence passed from Mr. Glyn. He told them that he should represent the lord Strafford as cunning in his replies, as he had been crafty in his actions; that he waived all that was material, and insisted only upon the secondary proofs; that it was more than evident throughout all his charge, how he had endeavoured to bring in an arbitrary and tyrannical form of government over the lives, lands, and liberties of the king's subjects; yea, had exercised a tyranny over their consciences too, by the oath administered in Ireland; and though his malicious designs had taken no effect, yet no thanks to him, but to the goodness of the king, and the vigilancy of the peers, had they pleased, it had been too late to have punished him; for no rule of law had been left whereby to censure him, after the death and expiration of the laws. And if the intention of *Guido Faux* might be thought treason, though the house was not blown up, then this intention of his may admit the same censure. That throughout all his defences he had pretended either warrants from the king, or else the king's prerogative; and what was this else but to draw up a cloud and exhale the vapour for the eclipsing of the bright sun, by the jealousies or repinings of his subjects, if the strength of his piety and justice should not dispel all these mists, and send them down to their original? That the very standing and falling of these three kingdoms stood upon this process; all of which do conceive their safety so far interested in his just punishment, that no settling of their peace or quiet could be expected without this; that they hoped the law should never protect him who had gone about to subvert all law; nor the nobility, who had the same blood moving in their veins, by submitting themselves to his base tyranny, lose that privilege and liberty which their ancestors had bought with their dearest lives. Though there was no statute for this treason, was it the less monstrous? for there was none for so many hundreds of years that durst ever venture upon such insolencies, to occasion such a statute: and were not the fundamental grounds, rules, and government sufficient to rise up in judgment against him, without the making of a particular statute? This, he said, he left to the dispute of the law; and concluded, that seeing they had found out the Jonah, who these many years had tossed and hazarded the ship of the commonwealth with continual storms and tempests, there could be no calms expected, but

by casting him out into the seas; which, in all justice, they must, and do expect from their hands, who are intrusted by the body of the kingdom to do the same.

Upon Wednesday, the house of commons perceiving a great defection of their party, and a great increase of the lord Strafford's friends in both houses, occasioned by his insinuating, honest, and witty defence, resolved immediately to hear nothing more in public: therefore it was determined upon by his accusers to draw up a bill of attainder, and present the same to the lords; whereby, first, the matter of the fact should be declared to have been sufficiently proved: and then in the matter of law, that he had incurred the censure of treason, for intending to subvert the fundamental laws of the kingdom; for though (said they) he cannot be charged by letter of statute of the twenty-fifth of Edward III. yet he is within the compass of the *salvo*, whereby it is provided, that the king and parliament hath power to determine what is treasonable, and what not; and that they were confident the lords would ratify and approve of this bill of theirs, and gave judgment accordingly.

The lords told the house of commons in their conference on Thursday, that they would go on the same way they did already; and, according to the order of the house, give full audience to the lord Strafford's counsel in matter of law, and that they themselves, as competent judges, would by themselves only give sentence in the cause; nor was there any other course suitable to the practice and statutes of the kingdom, the safety of the nobility, or to equity or common justice

It was replied by the lower house that they were resolved to go on with their bill, and if the same should be rejected by the lords, they feared a rupture and division might follow, to the utter ruin and desolation of the whole kingdom; that no content would be given to the subject, unless the man, who had so much intruded upon their right and discontented the people, was punished as a traitor for an example to the kingdom; that no man had ever found such a favourable hearing; and that the process against Essex, Norfolk, Somerset, were all of them closed in one day.

Thursday, April 29th, was fixed upon for the agitation of the business:—The lords met at the great hall at Westminster, about nine o'clock, not in their robes, nor did the lord-steward sit upon his sack, but with the rest promiscuously; nor did the committee for the house of commons stand at the bar, but sat with the body; and the earl of Strafford sat behind the place where he used to sit before; the reason of these changes was, because the object was appointed not for a meeting, but for a conference; the king, queen, and prince were there, according to their custom; not a man spake a word in the house all the time, but only Mr. St. John, the king's solicitor, one of the committee, whose drift and purpose was to furnish the lords with reasons, why the house of commons had proceeded with a bill of attainder; and likewise, to reply to what the lord Strafford had spoken, either by himself or his counsel, in matter of law. The speech was in print.

Upon Friday he petitioned the lords to be heard again, because his lawyers had not fully spoken at their last meeting; but this was denied him, because the commons were to have the last speech.

Upon this information the king, fearing the inconstancy of the lords, came to the house on Saturday, at ten o'clock, and having sent for the house of commons, spake much to this effect.

THE KING'S SPEECH TO THE HOUSE OF COMMONS.

That he had sincerely, without affection or partiality, endeavoured to inform himself concerning the lieutenant's charge; and had, at length, seriously pondered with himself, both concerning the matter of fact and the matter of law; and now it stood him in hand to clear their judgments, then to exonerate his own conscience. For them, he had two things to declare:—

First, That there never was such a project, nor had the lord Strafford ever

offered such advice for the transporting of the Irish army into England; so that in nothing the lieutenant had been more misunderstood than in that; which imputation did in no small measure reflect on himself (the king), as if he had intended to make war upon his own good subjects; which thought (he said) was far enough from his breast, nor could any man in probability think so unworthily of him, who had perceived how graciously he had dealt with his subjects elsewhere, that had deserved a great deal worse.

Secondly, That the lieutenant had never advised him to establish an arbitrary government; nor if he had, should he have escaped condign punishment; nor would any of his good subjects ever think otherwise, unless they conceived him either to be a fool or a tyrant; that he either could not or would not discern such wickedness. He was well content (he said) with that authority and power which God had put into his hands; nor should he ever think it his prerogative to intrude upon the propriety of the subject.

For himself and his own conscience (he said), he was now to declare, that in his own judgment, there was nothing in the process against the lieutenant that deserved the censure of treason. Oversights and misdemeanours there were, in such a measure, that he confessed the lord Strafford was never worthy hereafter to bear any office in his kingdoms, no, not so much as of a constable; but was to be answerable for all his errors, when they were to be charged upon him; and to this none of them should concur with greater alacrity than himself. That he hoped none of them would deny to give him the privilege of the first voice, which was, That he would never, in heart nor hand, concur with them to punish this man as a traitor; and desired, therefore, that they would think of some other way how the business might be composed; nor should it ever be less dear to him (though with the loss of his dearest blood) to protect the innocent, than to punish the guilty.—

Upon Saturday, May 8, the bill against the lord Strafford passed the lords; there were forty-five present, of which nineteen voted for him, and twenty-six against him. The greater part of his friends absented themselves under pretence (whether true or suppositious) that they feared the multitude. On Sunday the king was resolute never to sanction the bill, telling them, that it seemed strange to him that the man could not die, unless he, and he only by giving a sentence he disapproved of, should condemn him.

But at last *victus dedit manus;* being overcome with such incessant importunities, he yielded. And about nine o'clock at night the king promised to sign both the bills the next morning; which was accordingly done, and a commission drawn up for his execution.

The commons were overjoyed at the passing these two bills, and returned his majesty their thanks for his extraordinary condescension, assuring him, *They would make him a glorious king, and richer than any of his predecessors:* but, whatever they then designed to make him, certain it is, he became from that hour dependent on the parliament, and by giving the royal assent to those two acts, resigned his authority and influence over his people.

The king, too late sensible of his error, wrote to the house of peers, by the prince his son, to entreat that mercy might be shown the earl; that they would be content with his perpetual imprisonment; and endeavour to obtain a conference with the house of commons, and endeavour to bring them into the same sentiments; adding, by way of postscript, "That if he must die, it were charity to reprieve him till Saturday." But so little influence had these prayers and entreaties, that the lords let his majesty know that neither of his intentions could be complied with. Wednesday, the 12th of May, therefore, being appointed for the execution of the earl, he desired the lieutenant of the Tower, the evening before, to let him speak with the archbishop of Canterbury, his fellow-prisoner; but the lieutenant answered, he durst not permit him without an order of parliament; whereupon the earl related to archbishop Usher, who was then at his lordship's lodgings in the tower, what he intended to have said, if he had been permitted to see archbishop Laud, namely, that

he would have desired his grace to assist him with his prayers that night, and give him his blessing when he went to the scaffold the next day; he desired also he would be at his window, that he might thank him for all his favours; and archbishop Usher delivering the message to archbishop Laud that evening, his grace of Canterbury appeared at his window next morning as the earl passed by, when the earl looking up and demanding his prayers and his blessing, his grace lifted up his hands, and gave him both; then the earl making a submissive bow, said, "God protect your innocency," and moved on towards the scaffold, which was erected on Tower-hill. The lieutenant was desired to take coach, for fear the mob should rush on him as he walked, and pull him to pieces; but the earl answered, no; he was not afraid to look death in the facc, and the people too. Have you a care, says the earl, that I don't escape; and whether I die by the hands of the executioner or the fury of the people, is to me perfectly indifferent.

Having mounted the scaffold, he saluted the gentlemen he found there, and began to take his last leave of his friends, who appeared much more concerned than himself, and observing his brother, sir George Wentworth, weep:

"Brother," said he, cheerfully, "what do you see in me to deserve these tears? Does any indecent fear betray in me any guilt, or my innocent assurance any atheism? Think now that you are accompanying me the third time to my marriage bed. Never did I throw off my clothes with greater freedom and content, than in this preparation to my grave. That stock," pointing to the block, "must be my pillow: here shall I rest from all my labours: no envious thoughts, no dreams of treason, jealousies, or cares for the king, the state, or myself, shall interrupt this easy sleep; therefore, brother, pity with me those men, who, contrary to their intention, have made me happy. Rejoice in my happiness, rejoice in my innocence." Then kneeling down, he made this protestation: "I hope, gentlemen, you think that neither the fear of loss, or love of reputation, will suffer me to belie God and my own conscience at this time. I am now in the very door going out, and my next step must be from time to eternity, either of peace or pain. To clear myself before you all, I do here solemnly call God to witness, I am not guilty, so far as I can understand, of the great crime laid to my charge; nor have ever had the least inclination or intention to damnify or prejudice the king, the state, the laws, or the religion of this kingdom; but with my best endeavours to serve all, and to support all, so may God be merciful to my soul."

Then rising up, he said, "My lord primate of Ireland, and my lords, and the rest of these noble gentlemen, it is a great comfort to me to have your lordships by me this day, because I have been known to you a long time. I come here, by the good will and pleasure of God, to pay that last debt I owe to sin, which is death; and by the blessing of that God, I trust to rise again, though the merits of Jesus Christ, to righteousness and life eternal.

"I submit to the judgment that has passed on me, with a quiet and contented mind. I thank God I freely forgive all the world from my very heart; there is not an angry thought arising in me towards any man living; and my conscience bears me witness, that in all my employments, since I had the honour to serve his majesty, I never had any thing in the purpose of my heart, but what tended to the joint and individual prosperity of king and people, although it hath been my ill-fortune to be misunderstood.

"I am not the first who hath suffered in this kind; it is the common portion of us all, while we are in this life, to err; righteous judgment we must wait for in another place; for here we are very subject to be misjudged one of another. There is one thing I desire to free myself of, and I am very confident I shall obtain your Christian charity in the belief of it. I was so far from being against parliaments, that I always thought the parliaments of England were the most happy constitutions that any kingdom or nation ever lived under, and the best means, under God, to make both king and people happy.

"My lord primate, it is a great comfort to me, that his majesty conceives me not meriting so severe and heavy a punishment. I do infinitely rejoice in this mercy of his, and I beseech God to return it into his own bosom, that he may find mercy when he stands most in need of it.

"I wish this kingdom all the prosperity and happiness in the world. I did it living, and now dying it is my wish. I do most humbly recommend this to every man who hears me; but desire they would lay their hands upon their hearts, and seriously consider, whether the beginning of the happiness and reformation of a kingdom should be written in letters of blood; and may I never be so unhappy as that the least drop of my blood should rise up in judgment against any one of you; but I fear you are in a wrong way.

"My lords, I have but one word more: I profess I die a true and obedient son to the 'church of England' wherein I was born, and in which I was bred; 'Peace and prosperity be ever to it.' It has been objected, but it is an objection scarce worth answering, that I have been inclined to popery; though I can truly say, that from the time I was one-and-twenty years of age to this present, going now upon forty-nine, I never had it in my heart to doubt of the religion of the church of England, nor ever had any man the boldness to suggest any such thing to me. And now, being reconciled by the merits of Jesus Christ my Saviour, into whose bosom I hope I shall shortly be gathered, to those happinesses which shall never have an end, I desire heartily the forgiveness of every man for any rash or unadvised words, or any thing done amiss. And so, my lords and gentlemen, farewell! farewell, all things of this world!

"I desire you will now join with me in prayer, and I trust in God we shall all meet, and live eternally in heaven, there to receive the accomplishment of all happiness, where every tear shall be wiped away from our eyes, and every sad thought from our hearts: and now God bless this kingdom, and Jesus have mercy on my soul."

Then he saluted the noblemen, and other persons of distinction upon the scaffold; after which he said again, "Gentlemen, I entreat you all to pray with me, and for me;" and his chaplain having laid the book of Common Prayer before him, he kneeled down, and prayed out of it a quarter of an hour, and as long without book, concluding with the Lord's prayer.

Then, standing up, he said to sir George Wentworth—

"Brother, we must part. Remember me to my sister, and to my wife, and carry my blessing to my son: charge him always to fear God, and continue an obedient son to the church of England; warn him that he bear no private grudge, or revenge towards any man concerning me. And bid him never to meddle with church livings; for that will prove a moth and canker to him in his estate; I wish him to be a servant to his country, without aiming at high preferment.

"Carry my blessing also to my daughters Anne and Arabella: charge them to serve and fear God, and he will bless them; not forgetting my little infant, which yet knows neither good nor evil."

While he was undressing, he said, "I as cheerfully put off my clothes at this time, as ever I did when I went to bed;" and putting on a white cap, he tucked up his hair under it; then having prayed again, and submitted to the block, his head was severed from his body at one blow.

THE REBELS IN 1745.

Soon after the decisive battle of Culloden, April 16, 1745, the earls of Kilmarnock and Cromartie, and lord Balmerino, were taken into custody; and lord Lovat was afterwards apprehended on a charge of having given advice and assistance to the pretender.

Lord Kilmarnock, who was distinguished by the comeliness of his appearance, was brought up in the profession of the Presbyterian faith; so that his joining the rebels may be deemed the more extraordinary, as there is no religion farther removed from popery than that of the presbytery of Scotland; but his lordship had married a lady who was strongly attached to jacobitical principles, and who made repeated efforts to convert him to her political sentiments: but, if the accounts transmitted to us are true, he resisted all her arguments till within a few months of the landing of the pretender; when having applied to the ministry for a place under the government, and his suit being rejected, he became determined with regard to his future conduct.

Lord Cromartie derived his descent from a family which had a kind of hereditary attachment to the house of Stuart. James the second had advanced his grandfather to the dignity of an earldom, for supporting him in his unjustifiable views against the rights and privileges of his subjects.

Lord Balmerino, as well as the earl of Cromartie, was a non-juror. He was the youngest son of the preceding lord Balmerino, and succeeded to the title but just before the battle of Culloden. He had been concerned in the rebellion in 1715, but received a pardon through the intercession of his friends. This nobleman was distinguished by his courage, and his skill as a swordsman; nor was he less distinguished by his firm adherence to the principles he had imbibed.

Lord Lovat professed the Roman Catholic religion. He possessed consummate abilities, and was profoundly learned: nor was his skill in political matters inferior to his other acquirements.

The lords Kilmarnock, Cromartie, and Balmerino being, in the month of July, 1746, brought up to answer for their treasons before the house of peers, assembled in Westminster Hall, the two former pleaded guilty; but lord Balmerino pleaded not guilty; on which he was put on his trial, and convicted on the fullest evidence.

When the unfortunate noblemen were carried up to receive sentence, Cromartie and Kilmarnock most humbly besought the peers to make interest with the king in their favour: but Balmerino scorned to ask such a favour, and smiled at his approaching fate.

Great interest being exerted to save the earls, it was hinted to Balmerino that his friends ought to exert themselves in his behalf; to which, with great magnanimity, he replied, "I am very indifferent about my own fate; but had the two noble lords been my friends, they would have squeezed my name in among theirs."

The countess of Cromartie, who had a very large family of young children, was incessant in her applications for the pardon of her husband, to obtain which she took a very plausible method. She procured herself to be introduced to the princess of Wales, attended by her children in mourning, and urged her suit in the most suppliant terms. The princess had at that time several children. Such an argument could scarcely fail to move; and a pardon was granted to lord Cromartie, on the condition that he should never reside north of the river Trent. This condition was literally complied with; and his lordship died in Soho-square, in the year 1766.

Orders being given for the execution of the lords Kilmarnock and Balmerino, on the 18th of August, 1746, a scaffold was erected on Tower-hill, and

the coffins were placed on the scaffold, while the sheriffs went to the Tower to demand the bodies of the devoted victims to public justice.

When the sufferers were brought out of the Tower, Kilmarnock said, God save king George; but Balmerino, still true to his former principles, exclaimed, God save king James.

The way to the place of execution was lined by soldiers of the foot-guards, and parties of the horse and grenadier guards closed the procession to the fatal spot, where they had no sooner arrived than the noblemen were conducted to different apartments, appropriated to the purposes of their private devotions. Lord Kilmarnock was attended by that eminent dissenting minister, Dr. Foster, who had frequently visited him during his confinement.

A clergyman of the established church attended lord Balmerino; and it was remarked, that as he passed to the place of execution some of the spectators said, which is lord Balmerino? to which he cheerfully replied, "I am lord Balmerino, gentlemen, at your service."

This brave and unfortunate man, evidently a sufferer from principle, having obtained permission from the sheriffs to speak with lord Kilmarnock, asked him, if he knew of any orders given, previous to the battle of Culloden, that no prisoner should be suffered to live. Kilmarnock denied any knowledge of such orders; on which Balmerino said, then it is one of their own inventions, contrived on purpose to justify their conduct.

The unfortunate sufferers having taken a final leave of each other, lord Kilmarnock and his friends joined in prayer with Dr. Foster, after which his lordship drank a glass of wine and ate a biscuit. He then applied to one of the sheriffs, requesting that the sentence of the law might be first executed on lord Balmerino: but this, he was told, could not be complied with, as his name stood first in the warrant of execution. Hereupon he took leave of his friends; said he should not address the people on the occasion; and having desired Dr. Foster to attend him to the last fatal moment, ascended the steps of the scaffold. On the sight of the coffin, block, and hatchet, he turned about to a friend, and said, this is terrible! He then kneeled down, and prayed devoutly; and the whole of his conduct so affected the executioner that he fainted, but was recovered by the help of a glass of wine.

His lordship's friends now assisted him in preparing for the dreadful fate that awaited him; but a considerable time was lost in tucking his hair, which was very long, under a nightcap. During this dreadful interval he seemed agitated with a thousand fears; his body was convulsed by the horrors of his mind; and when he knelt down to the block he laid his hands over it; a circumstance that again intimidated the executioner, who desired him to remove his hands, which was accordingly done; but now it was discovered that his waistcoat was in the way; on which he arose, and being assisted by his servant in taking it off, he again kneeled down; and after a short time spent in prayer, he dropped his handkerchief: and his head, except a small piece of skin, was severed at one stroke; the head, being received in a cloth of red baize, was put into the coffin with the body, and conveyed to the Tower.

During a great part of this solemn interval, lord Balmerino exercised himself in devotion, and then conversed with his friends with an astonishing degree of ease and fortitude. Every one present wept but himself; who seemed possessed with a conscious integrity of mind that supported him in this arduous trial. Sawdust being strewed over the scaffold, to hide the blood, the under-sheriff attended lord Balmerino, when the latter, preventing what he was going to say, asked if lord Kilmarnock had suffered; and put some questions respecting the executioner. His questions being answered, he said to his friends, Gentlemen, I shall detain you no longer; and having taken his leave of them with an air of great unconcern, walked to the scaffold in so intrepid a manner as to astonish all the spectators.

Going up to the executioner, he took the axe from his hand, and having

attentively regarded it, clapped him on the shoulder as an encouragement not to be fearful in the discharge of his office. Then going to the extremity of the scaffold, he inquired for the hearse, and desired that it might be drawn nearer; which was readily complied with. Having thrown his coat, waistcoat, and neckcloth on his coffin, he put on a flannel waistcoat, and taking out of his pocket a plaid nightcap, he put it on his head, and said, "I will die like a Scotchman."

Having fitted his neck to the block, he spoke a short time to the executioner, and then addressed the spectators as follows:—"Perhaps some persons may think my behaviour too bold, but remember, I now declare it is the effect of confidence in God, and a good conscience; and I should dissemble if I exhibited any sign of fear." Having placed his head on the block he stretched out his arms, and prayed in the following words: "O Lord, reward my friends, forgive my enemies, and receive my soul."

This said, he gave the signal for the stroke; but the executioner was so affected by the magnanimity of his behaviour, that he struck him three times before the head parted from the body. It was received in a piece of red baize, as lord Kilmarnock's had been; and a hearse having conveyed the deceased to the tower, he was interred in the same grave with the marquis of Tullibardine, who died during his imprisonment.

Lord Lovat was the last in the rank of peerage who suffered on account of the rebellion. He was a man of uncommon abilities and refined education; was more than eighty years old at the time of his death, and had acted a more unaccountable part in life than almost any other man: and perhaps it may be said, with truth, that insincerity and want of principle were the distinguishing marks of his character.

The following, among other instances, will prove the extravagance of his conduct. Having addressed the heiress of Lovat, in 1693, a marriage might have ensued, but that the lady was engaged to lord Salton's son. On this Lovat took some of his dependants to the house of that nobleman, and having caused a gibbet to be erected, swore he would hang the father and son, except all pretensions to the young lady were resigned.

This was complied with through terror, and even the contract of marriage given up: and he now intended to have seized the young lady's person; but her mother, a widow lady, having secreted her, he was determined on revenge; on which he went to the house of the mother, taking a clergyman with him, and being attended by several armed ruffians, he compelled the old lady to marry one of the persons who came with him. This being done he cut off her stays, and obliged her to go to bed; and he with his associates waited till the consummation of this forced marriage. For this infamous transaction Lovat was tried as an accessory to the rape, and was capitally convicted; but received a pardon from the lenity of king William the third.

Going to France, in 1698, he turned papist, by which he acquired the good opinion of the abdicated king James the second, who employed him to raise recruits in Scotland; but he revealed the substance of his commission to the British ministry; which circumstance being discovered by some Scotch Catholics, an account of it was transmitted to France; so that on his next visit to that country, in the year 1702, he was lodged in the Bastile, where he continued some years; but at length obtaining his liberty, he went to St. Omers, where he entered into the order of Jesuits.

Returning to Scotland on the demise of queen Anne, he succeeded to the title of Lovat, to which a good fortune was annexed; but in the following year, when the Pretender landed in Scotland, he for a while abetted his cause; but finding his interest decline, he raised a regiment in opposition to him. This latter part of his conduct coming to the knowledge of king George the first, Lovat was sent for to court, where he was highly caressed.

At the time he was supporting the rebellion of 1745 with men and money, the lord president Forbes wrote to him, and conjured him in the most earnes

manner, to take a decisive and vigorous part in behalf of government; and Lovat answered him in such a manner as seemed to imply an assent to all he urged; though at this very time the men he had sent to assist the rebels were commanded by his own son.

He was apprehended in his own house, some days after the battle of Culloden, by a party of dragoons; but being so infirm that he could not walk, he was carried in a horse-litter to Inverness, whence he was sent in a landau to Edinburgh, under the escort of a party of dragoons. Having been lodged one night in the castle, he was conveyed to London, and committed to the Tower, only two days before Kilmarnock and Balmerino suffered the dreadful sentence of the law.

Several of the witnesses whose presence was judged necessary on the trial of lord Lovat residing in the north of Scotland, it was thought proper to postpone it till the commencement of the following year; and he was accordingly brought to his trial before the house of peers, in Westminster hall, on the 9th of March, 1747, lord-chancellor Hardwick presiding on the solemn occasion.

On the first day of the trial, lord Lovat objected to a witness, because he was his tenant; but his competency to give his deposition being allowed, after long arguments, he deposed that his lordship had been active in raising supplies for the Pretender, who had made a descent on the kingdom in consequence of his advice.

This was the substance of the first day's proceedings; and a great part of the second was spent in debates respecting the admissibility of Mr. Murray, who had been secretary to the Pretender, as an evidence. It was urged that his evidence could not be allowed as he stood attainted; but the attorney-general having read the record of the attainder, and produced the king's pardon, all further objections fell to the ground.

On the following day Mr. Murray was examined, and proved that lord Lovat had assisted the rebels with men and money; and that he had commissioned two of his sons to cause his tenants to take arms in behalf of the Pretender.

Lord Lovat's servants proved that the Pretender had been assisted with money by his lordship; and on the fourth day several gentlemen from the Highlands gave their testimony to the same purpose.

The evidence for the crown being summed up on the fifth day, lord Lovat was acquainted by the lord high-steward that he must prepare for his defence; and, accordingly, on the sixth day, his lordship insisted that the parties who had given evidence against him were his enemies, and that they had been induced to give their testimony by threats of subornation; and he endeavoured to support his allegations by the deposition of two Highlanders; but what they said had little influence against the concurrent testimony of the other witnesses.

The peers being assembled in parliament on the seventh day, determined on their verdict, and having returned to Westminster hall, the culprit was informed by the lord high-steward that he had been found guilty by his peers. To this lord Lovat said that he had been ill treated while under misfortunes; and this he declared with so much acrimony, that the high-steward reproved him for the indecency of his behaviour, and then passed on him the sentence of the law.

After conviction lord Lovat behaved with uncommon cheerfulness, appearing by no means intimidated at the fate that awaited him. His friends advising him to apply for the royal mercy, he declined it, saying that the remnant of his life was not worth asking for. He was always cheerful in company; entertained his friends with stories, and applied many passages of the Greek and Roman history to his own case.

On the arrival of the warrant for his execution, lord Lovat read it, and pressing the gentleman who brought it to drink a bottle of wine with him

entertained him with such a number of stories as astonished the visitor, that his lordship should have such spirits on so solemn an occasion.

The major of the Tower inquiring after his health one morning, he said, "I am well, sir; I am preparing myself for a place where hardly any majors go, and but few lieutenant-generals." Having procured a pillow to be placed at the foot of his bed, he frequently kneeled on it, to try how he should act his part at the fatal block; and, after some practice, thought himself sufficiently perfect to behave with propriety.

Waking about two in the morning on the day before his death, he prayed devoutly for some time, and then slept till nearly seven, when he was dressed by the assistance of the warder. This day he spent with his friends, conversing cheerfully both on public and private affairs. He was even jocose in a high degree, and told the barber who shaved him to be cautious not to cut his throat, which might baulk many persons of the expected sight on the following day. Having eaten a hearty supper, he desired that some veal might be roasted that he might have some of it minced for his breakfast, being a dish of which he was extremely fond. He then smoked his pipe, and retired to rest.

Waking about three in the morning, he employed some time in devotion, and then reposing himself till five o'clock, he arose, and drank a glass of wine and water, as he was accustomed to do every morning. He then employed himself about two hours in reading, which he could do without spectacles, notwithstanding his advanced age, for he had lived a life of temperance, and his eyesight was uncommonly good.

Having called for his breakfast of minced veal, he ate heartily of it, and drank some wine and water to the health of his surrounding friends. The coffin, with his name and age, and decorated with ornaments proper to his rank, being placed on the scaffold, Mr. Sheriff Alsop went to the gate of the Tower at eleven o'clock, to demand the body. This intelligence being conveyed to lord Lovat, he requested a few minutes for his private devotions; in which being indulged, he returned cheerfully, and said, "Gentlemen, I am ready;" and having descended one pair of stairs, general Williamson requested him to repose himself a few minutes in his apartment.

Complying with this invitation, he staid about five minutes, behaved with the utmost politeness to the company, and having drank a glass of wine, got into the governor's coach, which conveyed him to the gate of the Tower, where he was received by the sheriffs. Being conducted to a house near the scaffold, he told the sheriff he might give the word of command when he pleased; for (added he) I have been long in the army, and know what it is to obey. Having drank some burnt brandy and bitters, he ascended the scaffold, and taking a survey of the surrounding multitude, he expressed his astonishment that such numbers could assemble to witness the decollation of so ancient a head.

Observing a friend on the scaffold who appeared very desponding, he put his hand on his shoulder, and said, "cheer up thy heart, man; I am not afraid, and why shouldst thou?" Then giving the purse of gold to the executioner, he bade him act his part properly, saying, "if you do not, and I am able to rise again, I shall be much displeased with you."

He now sat down in a chair, and having repeated some sentimental lines from the classic authors, he stripped himself, and laid his head on the block. After a few minutes spent in devotion, he dropped his handkerchief; on which his head was cut off; and being received in a cloth of red baize, was put into the coffin with the body, and conveyed to the Tower in a hearse.

Immense crowds of spectators were on scaffolds on Tower-hill, to behold the final exit of this extraordinary man; but some of them paid dear for their curiosity; for, before he was brought out of the Tower, one of the scaffolds broke down; by which several persons were killed on the spot, and a great

number had their bones broken, and were otherwise terribly bruised; to the distress of many families, and the total ruin of others. Lord Lovat was executed on the 9th of April, 1747.

Charles Ratcliffe, esq. (brother of lord Derwentwater, who suffered in 1716), having been taken prisoner at Preston, was conducted to London, where, being tried and convicted, he was imprisoned in Newgate, but received repeated reprieves: and it was thought he would have been pardoned in consideration of his youth. Being lodged in a room called the castle, he and thirteen other prisoners escaped to the debtors' side of the prison, where the turnkey let them out, on a supposition that they were visitors to some of the unfortunate debtors.

Thus at large, Mr. Ratcliffe embarked for France, from whence he went to Rome, where he obtained a trifling pension from the pretender. After a residence of some years in Italy, he went to Paris, where he married the widow of lord Newburgh, by whom he had one son.

Coming to England in 1733, he lived some time in London; but no notice was taken of him, though he made no secret of the place of his residence.

He went again abroad, but returning in 1735, made application for a pardon; but though this was refused, he still remained unmolested. Unsuccessful in this application, he went once more to France, where he lived in a retired manner till the commencement of the rebellion in 1745, when he embarked at Calais, bringing his son with him, with a view to have joined the pretender; but the vessel in which he sailed being taken by the Sheerness man-of-war, he was brought to Deal, whence being conveyed to London, he was committed to the Tower, where he remained till the rebellion was suppressed.

His son, having been born abroad, while his father denied his allegiance, was not considered as a subject of England, and was therefore exchanged on the first cartel for French prisoners.

Mr. Ratcliffe was brought up to the court of king's bench, in Michaelmas term, 1746, and there received sentence of death on the record of his former conviction in 1716; but on account of the noble family from which he was descended, he was ordered to be beheaded, instead of being hanged.

A scaffold being erected on little Tower-hill, the 8th of December was ordered for the day of execution; when the sheriffs, going to the Tower about eleven o'clock, demanded the body; on which general Williamson, the deputy-governor, went to Mr. Ratcliffe's room, where hefound him in a scarlet coat, faced with black velvet, and trimmed with gold, and a waistcoat laced with gold. The prisoner received the governor and his attendants politely, and after drinking a glass of wine with them, got into a landau, which conveyed him to the back gate of the Tower, where the sheriffs received him; and he then went into a mourning-coach, being attended by a priest of the Roman Catholic persuasion.

Near the scaffold was erected a small room hung with black, in which he was employed about half an hour in private devotion, and then ascended the scaffold. He had several friends, as well as the priest, to attend him, and he behaved in a manner remarkably resigned to his fate. After speaking to the executioner, he gave him a purse of guineas; and then kneeled on the scaffold, and his friends likewise kneeling, he prayed devoutly for a few minutes; then rising up, he put on a nightcap, threw off his clothes, placed his head on the block, and suffered the sentence of the law.

On the 23d of June, 1746, at the sessions held at St. Margaret's hill, for the trial of the rebels, colonel Francis Townley, of the Manchester regiment, was indicted for the part he had acted in the rebellion. When the pretender came to Manchester, Townley offered his services; which being accepted, he was commissioned to raise a regiment, which he soon completed; but being made a prisoner at Carlisle, he was conducted to London.

His counsel insisted that he was not a subject of Great Britain, being an

officer in the service of the French king; but this the judges observed was a circumstance against him, as he had quitted his native country, and engaged in the French service without the consent of his lawful sovereign. Some other motions being overruled, he was capitally convicted and adjudged to die.

John Barwick, formerly a linen draper of Manchester, but afterwards a lieutenant, was the next person tried and convicted.

James Dawson, a native of Lancashire, was genteelly born, and liberally educated at St. John's college, in Cambridge. After leaving the university he repaired to Manchester, where the pretender gave him a captain's commission. Dawson had paid his addresses to a young lady, to whom he was to have been married immediately after his enlargement, if the solicitations that had been made for his pardon had been attended with the desired effect. The circumstance of his love, and the melancholy that was produced by his death, is so admirably touched in the following ballad by Shenstone, that Dawson's story will probably be remembered and regretted when that of the rest of the rebels will be forgotten.

JEMMY DAWSON—A BALLAD.

Come listen to my mournful tale,
  Ye tender hearts and lovers dear;
Nor will you scorn to heave a sigh,
  Nor will you blush to shed a tear

And thou, dear Kitty, peerless maid,
  Do thou a pensive ear incline,
For thou canst weep at ev'ry wo,
  And pity ev'ry plaint but mine.

Young Dawson was a gallant youth,
  A brighter never trod the plain;
And well he lov'd one charming maid,
  And dearly was he lov'd again.

One tender maid she lov'd him dear,
  Of gentle blood the damsel came,
And faultless was her beauteous form,
  And spotless was her virgin fame.

But curse on party's hateful strife,
  That led the faithful youth astray,
The day the rebel clans appear'd:
  Oh, had he never seen that day!

Their colours and their sash he wore,
  And in their fatal dress was found:
And now he must that death endure,
  Which gives the brave the keenest wound.

How pale was then his true-love's cheek,
  When Jemmy's sentence reach'd her ear!
For never yet did Alpine snows,
  So pale, nor yet so chill appear.

Yet might sweet mercy find a place,
  And bring relief to Jemmy's woes,
O George! without a pray'r for thee,
  My orisons should never close.

The gracious prince that gives him life,
  Would crown a never-dying flame;
And ev'ry tender babe I bore
  Should learn to lisp the giver's name.

But though, dear youth, thou shouldst be dragg'd
  To yonder ignominious tree,
Thou shalt not want a faithful friend
  To share thy bitter fate with thee.

O then her mourning coach was call'd;
  The sledge mov'd slowly on before;
Though borne in a triumphal car,
  She had not lov'd her favourite more.

She follow'd him, prepar'd to view
  The terrible behests of law:
And the last scene of Jemmy's woes
  With calm and steadfast eyes she saw.

Distorted was that blooming face,
  Which she had fondly lov'd so long:
And stifled was that tuneful breath,
  Which in her praise had sweetly sung.

And sever'd was that beauteous neck,
  Round which her arms had fondly closed;
And mangled was that beauteous breast,
  On which her love-sick head repos'd:

And ravish'd was that constant heart,
  She did to ev'ry heart prefer;
For though it could its king forget,
  'Twas true and loyal still to her.

Amidst those unrelenting flames
  She bore this constant heart to see;
But when 'twas moulder'd into dust,
  Yet, yet, she cried, I'll follow thee.

My death, my death, can only show
  The pure and lasting love I bore;
Accept, O Heav'n! of woes like ours,
  And let us, let us, weep no more.

The dismal scene was o'er and past,
  The lover's mournful hearse retir'd;
The maid drew back her languid head,
  And, sighing forth his name, expir'd.

Though justice ever must prevail,
  The tear my Kitty sheds is due;
For seldom shall we hear a tale
  So sad, so tender, and so true.

George Fletcher, who had been a linen-draper at Stratford, near Manchester, was so ambitious of serving the pretender, that he gave his secretary, Mr. Murray, fifty pounds for a captain's commission.

Thomas Syddall was a barber at Manchester, and had supported a wife and five children in a creditable way, till the rebel troops arrived at that place. His father was hanged at Manchester for his concern in the rebellion of 1715, and his head had remained on the Market-cross till the year 1745, when it was taken down on the arrival of the pretender. Syddall, who was a rigid Roman Catholic, now vowed revenge against the Protestants, with a view to accomplish which, he obtained an ensign's commission from the pretender's secretary. The attachment of this man to the pretender was so extraordinary, that almost in the last moment of his life, he prayed that his children might be ready to assert the same cause at the hazard of their lives.

Thomas Chadwick was tried immediately after Syddall. He was a tallow-chandler, but had not long followed business; for associating with persons of jacobitical principles, he accepted the commission of lieutenant in the pretender's service; he was tried and convicted.

Thomas Deacon, the next person tried, was the son of a physician of eminence. His principles of loyalty being tainted by associating with jacobites, he became zealous in the cause of the pretender; and his zeal was rewarded by the commission of lieutenant-colonel in the Manchester regiment.

Andrew Blood, who had been steward to a gentleman in Yorkshire, of which county he was a native, was descended from a respectable family.

David Morgan, esq. of Monmouthshire, had been sent by his father to study law in the Temple, and practised a short time as a counsellor; but his father dying, he went to reside on his estate in the country. Having met the rebels at Manchester, he advised the pretender to proceed immediately to London, assuring him that the whole force to oppose him did not exceed three thousand men.

The pretender having granted Morgan a warrant to search the houses in Manchester for arms, he did this in the strictest manner, and threatened with exemplary punishment all those who opposed him. A colonel's commission was offered him; but he declined accepting it, proposing rather to give his advice than his personal assistance. When the rebels marched to Derby he quitted them; but, being taken into custody, he was lodged in Chester-castle, and thence conveyed to London: and conviction following commitment, he was sentenced to die with his associates. After the sentence of the law was passed, the convicts declared that they had acted according to the dictates of their consciences, and would again act the same if they were put to the trial.

When the keeper informed them that the following day was ordered for their execution, they expressed their resignation to the will of God, embraced each other, and took an affectionate leave of their friends. On the following morning, July 20, 1746, they breakfasted together, and having conversed till eleven o'clock, were conveyed from the new jail, Southwark, to Kensington common, on three sledges. The gibbet was surrounded by a party of the guards, and a block and a pile of fagots were placed near it. The fagots were set on fire while the proper officers were removing the malefactors from the sledges.

After nearly an hour employed in acts of devotion, these unhappy men, having delivered to the sheriff some papers expressive of their political sentiments, underwent the sentence of the law. They had not hung above five minutes when Townly was cut down, being yet alive, and his body being placed on the block, the executioner chopped off his head with a cleaver. His heart and bowels were then taken out and thrown into the fire; and the other parties being separately treated in the same manner, the executioner cried out, God save king George!

The bodies were quartered and delivered to the keeper of the new jail, who buried them; the heads of some of the parties were sent to Carlisle and Manchester, where they were exposed; but those of Townly and Fletcher were fixed on Temple-bar, where they remained for many years.

Three other persons suffered soon afterwards on the same spot, for the same offence.

Donald M'Donald joined the pretender soon after he came to Scotland, and had received a captain's commission. He was ever foremost where danger presented itself; was greatly distinguished at the battle of Prestonpans, and joined with lord Nairn in taking possession of Perth; services that made him of so much consequence that he was intrusted with the command of two thousand men.

James Nicholson having accepted a lieutenant's commission on the arrival

of the rebels at Edinburgh, proceeded with them as far as Derby; but when they returned to Carlisle he was taken into custody, and sent with the other prisoners to London.

WALTER OGILVIE went to lord Lewis Gordon, and joined the division of rebels under his command.

These unfortunate men suffered at Kennington common, on the 22d of August, 1746.

The judges, furnished with a special commission, proceeded to Carlisle, to try those confined in the castle of that city, the number of whom was no less than three hundred and seventy. Orders were given that nineteen out of twenty of these should be transported, and only the twentieth man tried for his life; and that the chance of trial should be determined by lot; but many of them refused to accept these terms.

Bills of indictment having been found against them, they were informed that counsel and solicitors would be allowed them without expense; and were told that the clerk of the peace was commissioned to grant subpœnas for such witnesses as they thought might be of service to them. This being done, the judges proceeded to York castle, to try those there confined; and adjourned the assizes at Carlisle till September.

In the mean time seventy were condemned of those confined at York, the most remarkable of whom was JOHN HAMILTON, esq., who had been appointed governor of Carlisle, having joined the pretender after the battle of Prestonpans. On the 1st of November, ten of the convicts were executed at York, and eleven more on the 8th of the same month; and four were ordered to suffer on the 15th; but three of these were reprieved.

The judges now returned to Carlisle, and as many of the witnesses on the behalf of the prisoners had come from Scotland, they refused to be sworn in the English manner, and at length they were sworn according to the custom of their own country.

Many of the prisoners pleaded guilty; and among those who stood the event of a trial, and were convicted, was a non-juring clergyman, named Cappock, who had preached to the rebels at Carlisle and Manchester.

No less than ninety-one persons received sentence of death at Carlisle, several of whom were people of fortune, who had abandoned their better prospects in life to take part in this rebellion. Ten of them were hanged and quartered at Carlisle on the 18th of October, and ten more at Brampton, in Cumberland, on the 21st of the same month; but many of them were transported, and several received an unconditional pardon.

Five others of the rebels, who had been tried in Surrey, suffered at Kennington common on the 28th of the month above-mentioned; one of whom, at the place of execution, drank a health to the Pretender.

In consequence of these convictions many estates were forfeited to the crown; but king George the second ordered them to be sold, and the whole produce, above twenty years' purchase, to be given to the orphans of those who had forfeited them. The rest was employed in establishing schools in the Highlands.

DR. CAMERON.—In consequence of the rebellion in 1745, an act of attainder was passed, in the following year, for the effectual punishment of persons concerned in the rebellion; and the life of Dr. Cameron was forfeited to the rigour of that act.

The brother of this unfortunate man was the chief of the family of their name in the Highlands, and had obtained the highest degree of reputation by his zealous and effectual endeavours to civilize the manners of his countrymen.

Dr. Cameron, being intended by his father for the profession of the law, was sent to Glasgow; where he continued his studies some years: but, having an attachment to the practice of physic, he entered the university of

Edinburgh; whence he went to Paris, and then completed his studies at Leyden, in Holland.

Though well qualified to have cut a respectable figure in any capital city, yet he chose to reside for life near his native place; and having returned to the Highlands, he married and settled in the small town of Lochaber, where, though his practice was small, his generous conduct rendered him the delight and blessing of the neighbourhood. His wife bore him seven children, and was pregnant of the eighth at the unfortunate period of his death.

While Dr. Cameron was living happy in his domestic circle, the rebellion broke out, and laid the foundation of the ruin of himself and family. The Pretender having landed, went to the house of Mr. M'Donald, and sent for the doctor's brother, who went to him, and did all in his power to dissuade him from an undertaking from which nothing but ruin could ensue. Mr. Cameron having previously promised to bring all his clan in aid of the Pretender, the latter upbraided him with an intention of breaking his promise: which so affected the generous spirit of the Highlander, that he immediately went and took leave of his wife, and gave orders for his vassals, to the number of nearly twelve hundred, to have recourse to arms.

He sent for his brother to attend him as a physician: but the doctor urged every argument against so rash an undertaking; from which he even besought him on his knees to desist. The brother would not be denied; and the doctor at length agreed to attend him as a physician, though he absolutely refused to accept any commission in the rebel army.

Dr. Cameron exhibited repeated instances of his humanity; but when the battle of Culloden gave a decisive stroke to the hopes of the rebels, he and his brother escaped to the western islands, whence they sailed to France, in a vessel belonging to that kingdom. The doctor was appointed physician to a French regiment, of which his brother obtained the command; but the latter dying at the end of two years, the doctor became physician to Ogilvie's regiment, then in Flanders.

A subscription being set on foot, in England and Scotland, in the year 1750, for the relief of those persons who had been attainted, and escaped into foreign countries, the doctor came into England to receive the money for his unfortunate fellow-sufferers. At the end of two years another subscription was opened; when the doctor, whose pay was inadequate to the support of his numerous family, came once more to this country, and having written a number of urgent letters to his friends, it was rumoured that he had returned.

Hereupon a detachment from lord George Beauclerk's regiment was sent in search of him, and he was taken in the following manner: captain Graves, with thirty soldiers, going towards the place where it was presumed he was concealed, saw a little girl at the extremity of a village, who, on their approach, fled towards another village. She was pursued by a sergeant and two soldiers, who could only come near enough to observe her whispering to a boy, who seemed to have been placed for the purpose of conveying intelligence.

Unable to overtake the boy, they presented their guns at him; on which he fell on his knees, and begged his life; which they promised, on condition that he would show them the place where Dr. Cameron was concealed.

Hereupon the boy pointed to the house where he was, which the soldiers surrounded, and took him prisoner. Being sent to Edinburgh, he was thence conducted to London, and committed to the Tower.

Being brought to the bar of the court of king's bench on the 17th of May, he was arraigned on the act of attainder, when, declining to give the court any farther trouble, he acknowledged that he was the same person who had been attainted: on which the lord chief-justice Lee pronounced sentence in the following terms: "You, Archibald Cameron, of Lochiel, in that part of Great Britain called Scotland, must be removed from hence to his majesty's prison of the Tower of London, from whence you came, and on Thursday, the seventh

of June next, your body to be drawn on a sledge to the place of execution; there to be hanged, till you are dead; your bowels to be taken out, your body quartered, your head cut off, and affixed at the king's disposal; and the Lord have mercy on your soul!"

The convict, being brought out of the Tower, was delivered to the sheriffs at ten in the morning; and, being placed in a sledge, was drawn through the streets of London to Tyburn, amidst such an immense number of spectators as have seldom witnessed so melancholy a scene. He was dressed in a bag wig, and wore a light-coloured coat, with scarlet waistcoat and breeches. He bowed to several people in the windows, as he passed; and there was equal manliness and composure in his behaviour. He looked round him in a manner that testified the calmness of his mind; and said to the clergyman who attended him, "This is a glorious day to me. It is my new birth-day! There are more witnesses at this birth than were at my first."

After the body had hung more than half an hour, it was cut down; and the remaining part of the sentence being carried into execution, the head and body were put into a coffin, and carried to an undertaker's, whence they were conveyed and interred in the chapel of the Savoy. Dr. Cameron was executed at Tyburn on the 7th of June, 1753, in the forty-sixth year of his age.

ROB ROY MACGREGOR,

AND OTHER MACGREGORS.—1700 to 1746.

Though the natives of the Highlands of Scotland long contemned and resisted the laws of the kingdom, and lived in a state of proud and turbulent independence, the cruelty and injustice which dictated the proscription of the clan Macgregor, can only be regarded as a wretched picture of that government and that age which could sanction an act of such barbarity.

This clan occupied the romantic wilds, and, at that period, the almost inaccessible valleys of Balquhiddar, and the Trosachs, comprehending a portion of the counties of Argyll, Perth, Dumbarton, and Stirling, appropriately denominated the country of the Macgregors. Among those regions, in former ages, the benefits of agriculture were almost unknown to the inhabitants, who chiefly lived upon animal food; but of this they were often deprived by the rigour of winter, so that the mutual spoliation of cattle became a regular system, especially during the period of the Michaelmas moon, and in some parts was essential to their preservation. The Macgregors pursued this plan in common with other tribes, though not under more aggravating cruelties.

By the merciless decree of fire and sword against the clan Gregor, not only were this race to be rooted out, but their very name was forbidden. They were indiscriminately pursued and massacred wherever they were found, until, by incessant persecution, and subdued by the number of their enemies, they were ultimately driven to despair, and sought refuge among the mountainous parts of Perth and Argyll, inhabiting the dismal cavities of rocks and the sombre recesses of forests. Even in this state of misery they were not allowed to exist. They were discovered in the fastnesses, and the earl of Argyll, with determined butchery, hunted down the fugitives through moors and woods till scarcely any other than their children remained alive.

Amidst the calamities of his race arose Robert Macgregor, Celtically named Roy (red), from his complexion and colour of hair, and as a distinctive appellation among his kindred, a practice which is still followed throughout the Highlands. He was the second son of Donald Macgregor, of the family of Glengyle, a lieutenant-colonel in the king's service, by a daughter of Camp-

bell of Glenlyon, and consequently a gentleman from birth. He received an education at that time considered liberal, at least suitable to the sphere of life in which he was to appear. Of strong natural parts, he acquired the necessary but rude accomplishments of the age; and with a degree of native hardihood, favoured by a robust and muscular frame, he wielded the broadsword with such irresistible dexterity, as few or none of his countrymen could equal. Yet he was possessed of complacent manners when unruffled by opposition, but he was daring and resolute when danger appeared; and he became no less remarkable for his knowledge of human nature than for the boldness of his achievements.

It was customary in those days, as it is at present, for gentlemen of property, as well as their tenantry, to deal in the trade of grazing and selling of cattle. This business appears to have been carried on by Rob Roy Macgregor to a considerable extent, so that in early life he was not conspicuous for any dashing exploit. He, accordingly, from the amicable terms upon which he stood with the duke of Argyll, now his avowed patron, assumed, by his permission, the name of Campbell, and relinquished that of Macgregor, though in the country, and among his clan, he was acknowledged by no other. He was, consequently, in a writ dated in 1703, denominated Robert Campbell of Inversnait, his paternal inheritance.

In his cattle dealings, Rob Roy had a partner in whom he placed unbounded confidence; but this person having on one occasion been intrusted with a considerable sum of money, made a sudden elopement, which so shattered Rob's trading concerns that he was under the necessity of selling his lands to the duke of Montrose, but conditionally, that they should again revert to himself, provided he could return to the duke the sum he had promised to pay for them. Montrose had paid a great part, but not the whole of the price agreed upon. Some years having elapsed, Rob Roy found his finances improved, and, wishing to get back his estate, offered to restore the duke the sum he had advanced; but upon some equivocal pretence, he would not receive it, and, from Rob's dissolute character, an adjudication of the lands was easily obtained, which deprived him of any future claim. Considering this transaction as unjust on the part of Montrose, and his factor, Graham of Orchil, Rob watched his opportunity to make reprisal, the only remaining means in his power, and a future occasion gave him the success he desired. This factor, when collecting his rents, was attended, as a matter of compliment, by several gentlemen of the vicinity, who dined with him. Among those who were present at this time was Rob Roy; but before he came he placed twenty of his men in a wood close by, to wait a fixed signal, and went himself to the house with his piper playing before him. This was at the inn of Chapel-Arroch in Aberfoil. The factor had no suspicion of Rob's purpose, as he laid down his claymore to indicate peace, and partook of the entertainment, during which his piper played some wild pibrochs, the boisterous accompaniment which used to give a zest to every Highland feast.

Rob, in the mean time, observed the factor's motions, and saw that he deposited the money in a portmanteau which lay in the room. Dinner was no sooner over than he ordered his piper to strike up a new tune; and in a few minutes Rob's men surrounded the house; six of them entered with drawn swords—when Rob, laying hold of his own, desired the factor to deliver him the money which he had collected, and which he said was his due. Resistance was useless; the money was given up, and Rob granted a receipt for it. But as he conceived that the factor was accessory to the infringement of the contract that deprived him of his estate, he resolved to punish him. Accordingly he had him conveyed and placed in an island near the west end of Loch Ketturrin.

In this island was Orchil confined for some weeks; and, when set at liberty, was admonished by Rob Roy no more to collect the rents of that country,

which he meant in future to do himself, maintaining, that as the lands originally belonged to the Macgregors, who lost them by attainder, such alienation was an unnatural and illegal deprivation of the right of succeeding generations; and, from this conviction, he was the constant enemy of the Grahams, the Murrays, and the Drummonds, who then claimed and still inherit those extensive domains.

The most inveterate enemy that Rob Roy had to guard against was the earl of Athol, who had long harassed his clan, and whose machinations were even more alarming than the denunciation of the law. Rob had, no doubt, given cause for this enmity, for he had frequently ravaged the district of Athol, carried away cattle, and put every man to the sword who attempted resistance; and all this, he said, was to retaliate the cruelties formerly committed upon his ancestors. But he had once nearly paid for his temerity. The earl having sent a party of horse, they unexpectedly came upon him, and seized him in his own house of Monachaltuarach, situated in Balquhiddar. He was placed on horseback to be conveyed to Stirling castle, but in going down a steep defile he leaped off, ran up a wooded hill, where the horsemen could not follow, and escaped. Athol, on another occasion, sent twenty men from Glenalmond to lay hold of Macgregor. He saw them approaching, and did not shun them, though he was alone. His uncommon size and strength, the fierceness of his countenance, and the posture of defence in which he placed himself, intimidated them so much, that they durst not go near him. He told them that he knew what they wanted, but if they did not quietly depart, none of them should return.

A debt, to a pretty large amount, which he had long owed to a person in the Lowlands, could never be recovered, because no one would undertake to execute diligence against him. At length a messenger at Edinburgh appeared, who pledged himself that with six men he would go through the whole Highlands, and would apprehend Rob Roy, or any man of his name. The fellow was stout and resolute. He was offered a handsome sum if he would bring Rob Roy Macgregor to the jail of Stirling, and was allowed men of his own choice. He accordingly equipped himself and his men with swords, sticks, and every thing fitted for the expedition; and having arrived at the only public house then in Balquhiddar, he inquired the way to Rob's house.

Having announced himself as a stranger who had lost his way, he was politely shown by Rob into a large room. Fear now wholly overcame the messenger, and he could scarcely articulate, when four of Rob's men carried him out of the house, and they took him to the river just by, and tossed him in, allowing him to get out the best way he could himself. His companions, in the mean time, seeing all that happened, and supposing he had been killed, took to their heels. These people were no sooner out of the hands of the Macgregors than they made a speedy retreat to Stirling, and upon their arrival there they represented the usage they had received, with exaggerated accounts of the assassinations and cruelties of the Macgregors, so that the story was reported to the commander of the castle, who ordered a company of soldiers to march into the Highlands to lay hold of Roy Macgregor. A party of Macgregors who were returning with some booty which they had acquired along the banks of the Forth, descried the military on their way to Callander, and, suspecting their intention, hastened to acquaint Rob Roy of what they saw. In a few hours the whole country was warned of the approaching danger, and guards were placed at different stations to give notice of the movements of the soldiers. After a fruitless search for many days, the soldiers, unaccustomed to the fatigue of climbing mountains, and scrambling over rocks, and through woods, took shelter at night in an empty house, which they furnished with heath for beds; and the Macgregors, unwilling that they should leave their country without some lasting remembrance of them, set fire to the house, which speedily dislodged the soldiers. In the confusion many of them were

hurt, a number lost their arms, and one man was killed by the accidental discharge of a musket.

An annual payment used to be made to him by Campbell of Abruchil; but this proprietor having omitted to pay Rob for some years, he at last went to his castle with an armed party, to demand the arrears due to him. Having knocked at the gate, leaving his men at some distance, he desired a conversation with the laird; but he was told that several great men were at dinner with him, and that no stranger could be admitted. "Then tell him," said he, "that Rob Roy Macgregor is at his door, and must see him, if the king should be dining with him." The porter returned, and told Rob that his master knew nothing of such a person, and desired him to depart. Rob immediately applied to his mouth a large horn that hung by his side, from which there issued a sound that appalled the castle guard, shook the building to its base, and astonished Abruchil and his guests, who quickly left the dining table. In an instant Rob's men were by his side, and he ordered them to drive away all the cattle they found in the land; but the laird came hastily to the gate, apologized for the rudeness of the porter to his good friend Rob Roy Macgregor, took him into the castle, paid him his demand, and they parted good friends.

On the estate of Perth a clansman of Rob's occupied a farm on a regular lease; but the factor, Drummond of Blairdrummond, took occasion to break it, and the tenant was ordered to remove. Rob Roy, hearing the story, went to Drummond castle to redress this grievance. On his arrival there, early on a morning, the first he met was Blairdrummond, in front of the house, and knocking him down, without speaking a word, walked on to the gate. Perth, who saw this from a window, immediately appeared, and, to soften Macgregor's asperity, gave him a cordial welcome. He told Perth he wanted no show of hospitality, he insisted only to get back the tack of which his namesake had been deprived, otherwise he would let loose his legions upon his property. Perth was threatened into compliance, the lease was restored, and Rob sat down quietly and breakfasted with the earl.

In his depredatory incursions cattle and meal appear to have been the chief articles of his attention. He scarcely raised any grain on his own farms, and when he, or any of his people, or any poor person, were in want of meal, he went to a store which Montrose had at Moulin, ordered the quantity he required, gave the keeper a receipt for it, and made the tenants, with their horses, carry it to his house or wherever else it was wanted.

The more deliberately to carry on those inroads, he and his men, for he never had less than twelve, casually occupied a cave at the base of Ben Lomond, on the banks of the lake. This recess has its entrance near the water's edge, among huge fragments of rock broken from that stupendous mountain, and fantastically diversified by the interspersion of brushwood, heath, and wild plants, matured in the desert luxuriance of solitude.

But Rob, though generally favoured by fortunate incidents, could not always expect to get off with impunity; and after having many things in his own way, he at length pressed so hard on Montrose, that he was constrained to call out a number of his people, who, headed by a confidential Graham, and accompanied by some military, were sent for to lay hold of Macgregor. Rob and his band chanced to be absent when the Grahams assailed his house; but they learned the course he had taken, and by daybreak next morning, arrived at Crinlarach, a public house in Strathfillan, where our hero and his men had taken quarters for the night; he in the house, and they in an adjoining barn. The Grahams did not wait to gain admission to the house, but broke open the door. Rob was instantly on his feet, and accoutred. He levelled them man by man as they came to the door, until his own lads, roused by the noise, attacked the Grahams in the rear with such hard knocks that they retreated to some distance, leaving behind them several of their party sorely wounded;

and Rob, having fortified his men with a glass of whiskey, ascended the hill towards Glenfallach. The Grahams, expecting to obtain some advantage over them, followed at a little distance, till Rob's men shot some of the military, and drowned one soldier in a mill-dam, when the Grahams thought proper to withdraw.

After this inglorious trial to overcome Macgregor, though with five times the number of men, Montrose ceased for a while to give him any obstruction, until Rob, now grown, if possible, more courageous than ever, made a descent into the plains, and swept away cattle and every moveable article from the country round Balfron, and other parts; and this was commonly called the herriship of Kilrain. This appears to have been the greatest misdemeanour of which he stood accused, as it attracted the notice of government; and the western volunteers were marched into the Highlands to curb the insolence of Rob Roy and his thievish clan, as they were denominated. Several parties of horse were afterwards dispersed over the country to apprehend Rob, and a reward offered for his head, which obliged him for some months to take shelter in the woods, and in the cave at the side of Loch Lomond.

Having continued to wander from place to place, somewhat forlorn, though not broken in spirit, he became solicitous about the safety of his family, and had them privately removed to a remote situation at the head of Glenfine, among the mountains of Argyll. Having found this new retreat, though secure and distant, both inconvenient and uncomfortable, and their enemies having relaxed in their pursuit, they left the bleak hills of Argyll, and again took up their residence on the soil of their nativity.

Rob having shown no inclination to desist from his practices, Athol resolved to correct him in person, as all former attempts to subdue him had failed, and with this bold intention he set forward to Balquhiddar. A large portion of that country then belonged to Athol; and when he arrived there, he summoned the attendance of his vassals, who very unwillingly accompanied him to Rob's house, as many of them were Macgregors, but dared not refuse their laird. Rob knew the purpose of their visit, and to escape seemed impossible; but with strength of mind and quickness of thought, he buckled on his sword, and went out to meet the earl. He saluted him very graciously, and said, that he was much obliged to his lordship for having come, unasked, to his mother's funeral, which was a piece of friendship he did not expect; but Athol replied, that he did not come for that purpose, but to desire his company to Perth. A long remonstrance ensued; but the earl was inexorable, and Rob, apparently complying, went away amidst the cries and tears of his sisters and kindred. Their distress roused his soul to a pitch of irresistible desperation, and breaking from the party, several of whom he threw down, he drew his sword. Athol, when he saw him retreat, and his party intimidated by such resolution, drew a holster pistol and fired at him. Rob fell at the same instant, not by the ball, which never touched him, but by slipping a foot. One of his sisters, the lady of Glenfallach, a stout woman, seeing her brother fall, believed he was killed, and making a furious spring at Athol, seized him by the throat, and brought him from his horse to the ground. In a few minutes that nobleman would have been choked, as it defied the bystanders to unfix the lady's grasp, until Rob went to his relief, when he was in the agonies of suffocation. Had they staid till the clan assembled to the exequies of the old woman, it is doubtful if either the chief or his companions had ever returned to taste Athol brose.

The progress of the earl of Mar with his army of disaffected Highlanders greatly alarmed the government, and immediate orders were transmitted to Edinburgh to secure such suspected persons as were thought inimical to the king, and, among others, Rob Roy Macgregor was specially named. He, however, conducted himself with some caution on this occasion, and waited to observe the complexion of matters before he should proceed farther, as his friend Argyll had espoused the part of king George, a circumstance which

greatly distressed him. In a state of considerable indecision he proceeded to the Lowlands, and hovered about both armies prior to the battle of Sheriff-muir, without making any declaration or offer to join either; and upon that event he remained an inactive spectator.

Though the undecided issue of this trial eventually brought about the dispersion of the Highland army, the Macgregors continued together; but unwilling to return home without some substantial display of conquest, they marched to Faulkland, and garrisoned the ancient palace of that place; where, without much ceremony, they exacted rigorous fines from the king's friends. Here they remained till Argyll arrived at Perth, when they retired to their own country with the spoils they had acquired; but they continued in arms for several years thereafter, to the no small disturbance of their neighbours, in the pursuit of their usual compulsatory habits.

Those daring practices seem to have been the reason why, in the subsequent act of indemnity or free pardon, the Macgregors were excluded from mercy in these words: "Excepting all persons of the name and clan of Macgregor, mentioned in an act of parliament made in Scotland in the first of the late king Charles I. instituted anent the Clan Macgregor, whatever name he or they may have, or do assume, or commonly pass under;" and consequently our hero's name appeared attainted, as "Robert Campbell, alias Macgregor, commonly called Robert Roy."

In his trade of dealing in cattle Rob Roy often required to travel to different parts of the Lowlands, and the last time he visited Edinburgh was to recover a debt due to him by a person who was reputed opulent, but who had taken refuge in the sanctuary of the Abbey. There Rob went, and saw his man; but the sacredness of the place did not protect him; and, although he was a strong man, Macgregor laid hold of him, dragged him across the line of safety, and, having some officers of the law in waiting, gave over his charge to them, by which means he got his money. The power which Macgregor possessed in his arms was very uncommon. It was scarcely possible to wrench any thing out of his hands, and he was known to seize a deer by the horns and hold him fast. His arms were long almost to deformity, as when he stood erect he could touch his knee-pans with his fingers.

With the family of Montrose he had been at enmity for more than thirty years; but he considered the hurt they had done him to be an inexpiable offence, which he never forgave; but the animosity and rivalship which had existed betwixt Montrose and Argyll was probably a strong incentive to instigate Rob to that course which he had so long pursued against the former, as there is much reason to believe that Argyll took Rob by the hand merely to make him an instrument of opposition to Montrose.

At length, worn out with the laborious vicissitudes of a restless life, he sunk calmly to his end, at the farm of Inverlocharigbeg, among the braes of Balquhiddar, in 1740. His remains rest in the church-yard of that parish, with no other monument to mark his grave than a simple stone, on which some kindred spirit has carved a sword—the appropriate emblem of the man.

Though the sons of Rob Roy Macgregor had, in the life of their father, too forcible an example of misguided abilities, and pursued a course of nearly similar practices, yet we cannot but deplore the fate of two of them, as melancholy instances of that infirm and partial justice which characterized the party principles of those times. The destiny of the youngest brother was peculiarly severe, and is well known. He was styled after his father Rob Roy Macgregor-Og (young), and like him, was intended for a grazier; but, by the unlucky discharge of a gun, he killed a cousin of his own, for which accident, when only a boy of twelve years old, he was outlawed, and obliged to fly to France, where he remained till the commotion of 1745 brought him back to Scotland. He was afterwards accused of some acts of violence, of which there was no evidence of his having been guilty; and that for which he suffered an ignominious death, was an additional proof of that

rancorous spirit with which the Macgregors were still regarded. This man was arraigned for having carried away, by force, a young widow, who had voluntarily eloped with him, and became his wife; and though she declared this to be true, he was taken, at a market in his own country, by a party of soldiers from Inversnaid, carried to Edinburgh, where he was condemned and executed on the 6th of February, 1754, three years after his wife's death.

His brother, James Macgregor, who occasionally took the name of James Drummond, was implicated for the part he was supposed to have taken in that enterprise, which drew down upon him also the strong arm of the law, and he was taken up and put in confinement in the castle of Edinburgh. Previous to this affair James evinced the military ardour of his clan, and, along with his cousin, Macgregor of Glengyle, in 1745, took the fort of Inversnaid and made eighty-nine prisoners, with only twelve men. He then joined prince Charles Stuart, as major, at the head of six companies of Macgregors, in the fruitless contest which that young man had instituted for the recovery of the British throne. James Macgregor had his thigh-bone broken in the battle of Prestonpans; and though he could not accompany the prince on his ill-concerted march into England, James again joined him in the concluding battle of Culloden, and with many more of his partisans, came under the consequent act of attainder.

He was a prisoner in Edinburgh castle, and his daughter effected his escape; she had access to see him as often as she pleased, and having previously concerted the plan, in the dress and character of a cobbler, carrying in her hand a pair of mended shoes. Her father immediately put on the disguise; and having held some angry conversation with the supposed cobbler for making an overcharge, so as to deceive the sentinel, he hastily passed him undiscovered, and got clear of the outer gate, and reached Paris, where he lived till 1754.

The only other branch of that name which we can at present notice, was Gregor Macgregor, of Glengyle, known by the appellation of Ghlune Dhu, from a black mark on one of his knees. He was the nephew of Rob Roy; and had he lived as long, would have probably become no less eminent, as he followed the steps of his uncle, whom he wished to emulate, having often been his companion upon expeditions of danger. But his uncle having been wounded in an attack upon a party of military who opposed his carrying off some cattle from the vicinity of Dunbarton, Gregor was deputed to take the command.

He made an irruption to Drymen, and summoned the attendance of the surrounding lairds and tenants to the church of that place, to pay him their black mail. They all complied but one, whose cattle he drove away. The next of Gregor's exploits was that of taking the fort of Inversnaid, in 1745, with his cousin James and twelve men. In the fort they only found nine soldiers, the rest of the garrison having been out working at the roads; but they also secured them in the name of prince Charles Stuart, and marched them, eighty-nine in number, as prisoners to the castle of Doune.

During the strict scrutiny and rigorous punishment which followed the unhappy commotion of 1745 and 1746, Gregor, like many others, was forced to forsake his home, and take refuge among the woods and mountains of the Highlands. He was once observed lurking in the wilds of Glenlednick, and pursued across the hills to Loch Tay by a party of Campbells, one of whom, and his dog, he shot; and judging it unsafe to remain so near his own country, he and his only attendant, a clansman, travelled towards the braes of Athol, where they hoped to conceal themselves unmolested. Having traversed those wild and inhospitable regions for some days, they arrived at the lonely hut of a shepherd, immersed in a deep glen. Reports, however, reached the ears of the duke of Athol, that two men, one of them with a black mark on his knee, were concealed in this cottage; and he found means to bribe the hind, so that his lodgers might be secured by stratagem.

It chanced that Macgregor and his lad had one day gone to kill a deer in the neighbouring forest. The day rained so much that they were quite wet on their return. Macgregor sat down by the fire to dry himself; and as his hair was very long and wet, the landlady offered to comb and dry it. While in the act of doing so, she twisted her hand in it, and pulled him suddenly down upon his back to the ground. The concealed assassins and the shepherd immediately rushed upon him. He called to his companion; their strength was Herculean; and in a few minutes their assailants were all either dead or maimed. The treacherous woman, with the resolution of a fiend, having opposed their departure from her house with a drawn dagger, was seized and hanged to a joist. Gregor and his servant were both severely wounded; and having quitted this field of blood, they returned to Glengyle; but from the fatigue he had undergone, and the wounds he had received, Macgregor lived only two days after his arrival.

ALEXIS PETROWITZ CZAROWITZ,

PRESUMPTIVE HEIR TO THE CROWN OF RUSSIA, CONDEMNED TO DEATH BY HIS FATHER.

THIS prince, the son of Peter the Great, by his first wife, was naturally prone to voluptuousness and debauchery, in love with a dissolute and licentious life. This temper of mind rendered him insupportable to a father, who was himself all spirit and action, distinguished by military virtues, and who wished above all things, to bequeath the crown to a worthy heir. As soon as the czarowitz arrived at the years of reason, he was continually exhorting him to inform himself in the art of government; and when he saw that his remonstrances had no effect, he sent him a letter.

In this letter the czar displayed all the sublime sentiments of his heart, and a passionate desire to leave a son to succeed him, who should perpetuate his name and glory to future ages.

THE CZAROWITZ'S ANSWER.

"*Most gracious sovereign and father*,—I have read the letter which your majesty sent me on the 27th of October, 1715, after the interment of my spouse.

"All the reply I would make to it is this, that if your majesty be resolved to deprive me of the succession to the crown of Russia, on account of my inability, your will be done: I even request it of you very earnestly, because I judge not myself fit for government. My memory is greatly impaired, and without memory there is no possibility of managing affairs. The powers both of my mind and body are much weakened by the diseases to which I have been incident, and thereby I am incapacitated for the rule of so great a people: such a charge requires a man far more vigorous than I am.

"For these reasons I am not ambitious to succeed you (whom God preserve through a length of years) in the crown of Russia, even though I had no brother, as I have one at present, whom I pray God to preserve. As little will I for the future set up any claim to the succession; to the truth of which I solemnly swear, and take God to be my witness. In testimony whereof I write and sign these presents.

"I put my children into your hands; and for myself I ask no more of you but a bare maintenance during my life, leaving the whole to your pleasure.

The sagacious monarch, who saw through the disguise into his son's heart, was not to be so imposed upon by him: he sent him this writing, which he intituled his last admonition.

"My sickness has hindered me, till now, from answering yours, and explaining to you my final intention. You speak only of the succession, as if I needed your consent in the disposal thereof; I reproached you with the aversion you had to business, and signified to you, that I was highly dissatisfied with your conduct in general: as to these particulars you have given me no answer. Your silence is a declaration that you have no mind to reform: my paternal exhortations make no impression upon you; wherefore I was determined to write to you this once for the last time. If you despise the advices I give you while I am alive, what regard will you pay to them after my death? What dependence can there be upon your oaths, when your heart appears so hardened? David has said, every man is a liar; but though you had the inclination at present to be true to your promises, a corrupt priesthood will be able to turn you at pleasure, and force you to falsify them.

"As they see themselves deprived at present of the places of honour, whereof they have rendered themselves unworthy, by their lewdness and dissolute morals, they have no dependence but upon you; and the warm side which you show to them already, makes them hope that you will one day alter their condition for the better.

"Have you ever weighed the obligations which you owe to me as your father, who have given you your being, and neglected nothing for your education? Did you share with him the pains and anxieties he endured for you since you arrived at the age of maturity? You censure, you condemn, my most laudable actions, the sole aim whereof is the good of my people, and which I undertake at the expense of my health; whence I have ground to conclude, that, instead of watching for their preservation, you will be their destroyer, if you survive me. This calamity it is my duty to prevent, by obliging you to form other sentiments. I cannot bear that you should live like an amphibious creature, that is neither flesh nor fish; for I cannot otherwise define that kind of life you lead. Take your choice; either labour to make yourself worthy of the crown, or embrace a monastic state. My health is upon the decay, so that I am impatient to know your resolution. I expect your answer either by writing or word of mouth. If you show me no satisfaction in these points, I will show you no regard, but will treat you as a malefactor. PETER."

But the prince was far from answering his father's design; he wrote to him as follows:

"*Most gracious sovereign and father*,—Yesterday morning I received your letter of the 19th of this month. My indisposition hinders me from writing to you at large: I am willing to embrace the monastic state, and I beg your gracious consent thereto. Your servant, ALEXIS."

The czar at that time had resolved to travel through Europe, there to acquire such improvements in knowledge as might qualify him for civilizing the manners of his people, and introducing arts and sciences into his empire. Before his departure, he went to the prince, whom he found in bed, and asked him again, what resolution he had taken; and the czarowitz confirmed to him, by horrid oaths, his former declaration, that he would retire into a monastery.

The czar, however, was resolved to oblige his son, whatever it should cost, to choose one of the two proposals he had put in his offer: he had waited hitherto in regard to the princess of the crown, his spouse; but that

princess being dead, he had no further obstacle in his way. The czarowitz, who saw that he could no longer dally with a father so firm and resolute, and by no means to be put upon, determined to make an elopement: he made as if he was going to Copenhagen; but he was hardly got into Livonia, when he changed his route, and took that for Vienna, to put his destiny into the hands of the emperor Charles VI. his brother-in-law. In order to conceal from the czar the place of his retreat, he wrote him a feigned letter from Libau, dating it from Koningsberg, and signifying therein that he persisted in the same sentiments he had expressed to him before.

The czar had arrived at Amsterdam, when he heard of his son's elopement. He was solicitous about nothing so much, as to find out means to bring him back. On his departure from Paris, he heard he was in Naples: as soon as he was arrived at Spau, he despatched his privy counsellor, Tolstoy, and Romansoff, captain of the guard, who repaired speedily to Naples, with an order, accompanied by the following letter, to solicit the czarowitz to return to Russia, and throw himself upon the mercy of his father.

"*My son*,—Your disobedience, and the contempt you have shown of my orders, are known to all the world. Neither my reproofs nor corrections have had any effect to make you follow my instructions; and at length, after you had put a cheat upon me at parting with you, and trampled on the oaths you had taken, you have carried your disobedience to extremity by flying the kingdom, and putting yourself, like a traitor, under a foreign protection; a conduct hitherto unprecedented, not only in our family, but also among all our subjects of any consideration. What perplexity and disquietude have you thereby given to your father, and what infamy have you entailed upon your country? I write you for the last time, to tell you, that you are to do what Tolstoy and Romansoff shall signify to you in my name. Such is my pleasure.

"If you have any uneasy apprehensions of me, I assure you by these presents, and promise before God, as I shall answer at his bar, that I will not punish you; and that if you submit yourself to my will, and return to your duty, I will love you more than ever: but if you do not, I, as a father, by virtue of the power which I have derived from God, give you my eternal malediction, for the contempt and outrageous indignities you have poured upon me in that relation; and, as your sovereign, I assure you that I will find a way to treat you as an unworthy subject; wherein I hope God will assist me, and take my just defence into his hand.

"For what remains, remember that I have offered no violence to you in any thing. Needed I to have given you the free choice of the measures you were to take? Had I been disposed to compel you, was not the power to do it at hand? It was but giving the command, and I had been obeyed.

"*From Spau, 16th of July*, 1717. (Signed) PETER."

Accordingly the prince set out with those two lords, by whom he was conducted to Moscow, where the czar was, and whither he arrived on the 11th of February. That very evening he waited on his czarish majesty, with whom he had a long conference; and the next day a great council was held: on the 14th, by break of day, the guards and all the garrison of Moscow appeared in arms, and surrounded the castle. At the same time an order was issued to all his majesty's ministers, to the boyards and counsellors to repair to the great hall of the castle, and to the prelates to assemble in the cathedral, at the toll of the great bell. The czarowitz was conducted without a sword before his majesty; to whom, in presence of all the grandees of the empire, he presented a writing, containing a confession of his crime; and, all in tears, threw himself at the czar's feet. The monarch delivered this writing into the hands of baron Schafiroff, the vice-chancellor, and raising up his son asked him what was his request. The prince replied that he implored his mercy to save his life. The czar granted his request; but told him, at the same time,

that, as he had cut himself off from all hopes of the succession to the crown, he ought solemnly to renounce the same: to which he answered, that he was ready to conform himself to the czar's pleasure.

His majesty having put some questions to him, with regard to his disobedience, asked him, among others, who had advised him to make his elopement; upon which the prince having whispered the czar in the ear, they both retired into a chamber adjoining, where, we are told, he named the persons who had spirited him up to that design. Presently three couriers were despatched to different places. The czar and the prince having returned into hall, the latter signed a deed, whereby he declared himself incapable to govern, and renounced all right to the crown. Hereupon was read aloud the czar's manifesto, containing at large the reasons which determined him to exclude his eldest son from the succession to the crown. After which, all the ministers, boyards, officers, and grandees who were present, signed the form of an oath, and confirmed it upon the holy gospel, as follows:—That, whereas the czar had, by his letters patent, declared the czarowitz Alexis Petrowitz excluded from the crown, and established his second son Peter Petrowitz his heir, they submitted to the justice of his majesty's decree, acknowledging prince Peter Petrowitz lawful heir to the crown; bound themselves to support him with the hazard of their lives against all who should dare to oppose him, and under no pretext whatsoever to espouse the cause of Alexis Petrowitz, nor by any means abet him in pretending to the crown.

The writing which the czarowitz delivered into the hand of his majesty contained his act of renunciation, in these terms:—

"I, the undernamed, declare upon the holy gospel, that upon account of the crime I have committed against his czarish majesty, my father and sovereign, as set forth in this manifesto, I am, through my own fault, excluded from succession to the throne of Russia; therefore, I own and acknowledge that exclusion to be just, as having merited it by my own fault and unworthiness; and I hereby oblige myself, and swear in presence of Almighty God, in unity of nature, and trinity of persons, as my Supreme Judge, to submit in all things to this paternal will, never to set up a claim to the succession, never to pretend to it, or accept of it under any pretext whatsoever; acknowledging for lawful successor to the crown, my brother, the czarowitz Peter Petrowitz. In testimony whereof I kiss the holy cross, and sign these presents with my own hand. (Signed) ALEXIS."

The czar, however, thought he might dispose of his crown, and deprive his son of the right to succeed to it; and, as he foresaw that after his death the czarowitz might make a jest of his renunciation, he judged it necessary to bring him to a trial, in order to condemn him to capital punishment: and as his hands were tied up by the pardon he had promised him, he used pretexts to evade that promise; in which conduct he appears to have been influenced not so much by hatred to his son, as by jealousy for his personal glory, and that of his empire, and by love to his people; he foresaw that the czarowitz would be so far from treading in his steps, that by his mal-administration he would plunge his dominions into an abyss of misery.

The way by which he eluded the promise of pardon he had given the czarowitz was thus:—He declared to him it was his pleasure that he should reveal all the particular circumstances of his elopement, who were his counsellors, and whatever else had a relation to that event; assuring him, that if he spoke the truth without reserve or disguise, he would grant him his pardon: but if he did not discover all, and his accomplices too, if he concealed any thing that had any relation to his flight, the pardon should be null, and have no effect.

In consequence of this express mandate, the ministers, senate, and estates who were regularly convened, proceeded to interrogate the czarowitz.

This unfortunate prince was in such confusion, that, both in his answers and the writings he gave in of his own proper motion, he contributed effectually to his own undoing. All the depositions and papers relating to the cause were read, in presence of the senate and states assembled; after which they gave orders to search the Scriptures of the Old and New Testament, the constitutions of the empire, and the military laws, for pertinent authorities, that might be applied to the present case, in order to judge what pains and penalties his transgressions had deserved.

Several extracts from the laws, divine, civil, and military, having been read, it was unanimously resolved, that before pronouncing sentence, the ministers and senate should call the ordinary judges one after another, in order to hear each of their opinions.

This being done, the ministers in like manner delivered their suffrages, which, though given apart, unanimously centered in one and the same decision: having declared upon oath and conscience, that according to the above extracts of laws, divine, civil, and military, the czarowitz deserved death, for the crimes alleged and proved above.

The czarowitz, in his examination, accused his confessor, the arch-priest James. He said, that having confessed to him, among other things, that he wished his father's death, the confessor answered, God will forgive you: we wish that event as much as you.

On the same day, the confessor owned both upon the rack, and when he was confronted, that the czarowitz Alexis had said these very words at confessing: that he wished for the death of his father; and that he replied to the czarowitz, We all in like manner wish for his death: but that he did not remember who those were that wished it. He added, that he did indeed say to the czarowitz, that the people loved him, and drank to his health, naming him the hope of Russia, having heard so from several persons, but could not recollect who the persons were. This ecclesiastic was condemned to death, degraded, and executed.

The czar proposed several articles on which he desired that his son might be interrogated, and omitted nothing that might set his crimes in the strongest light. The unfortunate prince was entangled in his own words, by saying more than he intended to say.

At length the fatal sentence was passed, the tenor whereof was as follows:—

"The undersigned, constituted judges by his czarish majesty, and assembled in the great hall to give judgment; after having heard and maturely considered all that has been said, read, and reported, have with unanimous consent pronounced and passed the following sentence, signed and sealed with our own hands.

"Thus, since the laws divine and ecclesiastic, civil and military, particularly the two last, condemn to death without mercy, not only those whose attempts against their father and sovereign have been proved by testimonies or writings; but even such as have been convicted of an intention to rebel, and of having formed a bare design to kill their sovereign, or usurp the empire; what shall we think of a design of rebellion, such as there are few examples to be met with in history, joined to that of a horrid parricide against him who is his father in a double capacity, first as the father of his country, and then as his natural parent, a father of great lenity and indulgence, who brought up the czarowitz from the cradle with more than paternal care, with a tenderness which appeared on all occasions, who endeavoured to form him for government, and to instruct him, with incredible pains, and indefatigable application, in the art military, to qualify him for the succession to so great an empire; with how much stronger reason does such a design deserve to be punished with death?

"It is with an afflicted heart, and eyes full of tears, that we, as servants and subjects, pronounce this sentence; considering, as we have said, that it belongs not to us in this quality to give judgment in a case of such import-

ance, and particularly to pronounce a sentence against the son of our most sovereign and gracious lord the czar. Nevertheless, it being his pleasure that we give judgment, we declare by these presents our real opinion; and we pronounce this sentence of condemnation with so pure and Christian a conscience, that we hope we shall be able to answer for it before the awful, the just, and impartial judgment of the great God.

"For what remains, we submit this sentence which we now pass to the sovereign power, the will, and merciful revisal of his czarish majesty, our most merciful sovereign."

This sentence was signed by all the members of the court, to the number of a hundred and eighty, ministers, senators, generals, and other officers.

The czar ordered the sentence of death to be read to the czarowitz. The very hearing of it affected him to such a degree, that it made a sudden revolution in his whole frame, disordered his senses, and threw him into a convulsive lethargy. By using proper means to recall his senses, he was brought to himself a little. Intimations were given him that he might expect every thing from his father's clemency; but whether it was that the severity of the czar had made too strong impressions upon him to leave room for that hope, or that the disorder which the reading of the sentence occasioned in his faculties, was too great to be repaired, or that, as is highly probable, they had given him poison, his recovery could not be effected. He had just strength enough to ask pardon of the czar his father, in presence of several bishops, senators, and grandees of the realm.

The czar insisted upon the czarowitz reading the sentence himself. He was obliged to obey his father, and had hardly read it, when certain fumes mounted up into his brain, whereby he lost the use of his sight, and fell into a swoon, out of which he scarcely recovered; all this, he said, was the effect of poison, wherewith the sentence was infected; which had such a powerful effect upon him, that he died in three days afterwards, on the sixth of July, after having received the sacraments of the church.

The czar was not backward in performing to him the last offices of humanity with due pomp and solemnity. He ordered his body to be placed, from the eighth of July to the tenth, in the Trinity church, in an open coffin, richly ornamented with velvet. All had access to see him, and the people came in crowds to kiss his hand; at length the corpse was carried in procession to the new church of the citadel, where he was interred in the imperial tomb, by the princess his wife, with all the pomp and ceremonies observed towards the princes and princesses of the blood; their majesties having attended the funeral with all the court, and the principal nobility of the kingdom.

JOSEPH HUNTON,

FOR FORGERY, OCTOBER 28, 1828.

Joseph Hunton, draper, aged fifty-eight, a very respectable member of the society of Friends, was indicted for forging and uttering as true, a certain bill of exchange for forty-eight pounds ten shillings, with intent to defraud sir William Curtis, baronet, and others. The prisoner was also indicted for uttering a bill of exchange with a forged acceptance, for one hundred and sixty-two pounds nine shillings, with intent to defraud sir William Curtis, and others. He was further indicted for uttering a bill of exchange with a forged acceptance for fifty pounds, with intent to defraud sir William Curtis, and others. There were several other indictments against him of a similar nature, to all of which, on being arraigned, he pleaded "not guilty."

The court was crowded to excess; several members of the society of Friends were present. After the jury had been sworn, the prisoner applied to have his trial delayed till the next sessions; and when he was told that the application came too late, his counsel, at his request, threw up their briefs. The following evidence was led:—

William Curtis, Esq.—I am a partner in the house of sir William Curtis and Co. I knew the house of John Dixon and Co. The prisoner is a partner in that house; they carried on business in Ironmonger-lane; and kept an account at our house. I was in the habit of discounting bills of exchange for the prisoner. On the 1st of August, he came to our house with several bills, and requested them to be discounted. The bill now produced is one of them. I hesitated, and had a conversation with him on the subject, and requested him to explain the nature of the various bills, as they were drawn on persons of whom I had no knowledge. He replied, they were drawn on persons with whom they did business. I remember asking him, who Mountain, the acceptor of the bill named in the indictment, was. He said he was a person with whom his house had extensive dealings. The witness here described the manner in which the banking-house transacted business respecting discounting bills.

Mr. Blackett, a clerk in the house of sir William Curtis and company. On the first of August there is an entry in our discount-book of a bill for one hundred and sixty-two pounds ten shillings cashed for the house of John Dixon and company, of which the prisoner is a partner. I presented that bill at the bankers' where it was made payable; they refused payment, and informed me it was a forgery.

Alexander Chuney, another clerk in the banking-house of Messrs. Curtis and company, detailed the manner in which the bill was entered in their books.

John Dixon.—I am partner with the prisoner; he drew all the bills; the writing in the body of the bill produced is in the prisoner's handwriting. I am not aware that we have any customer of the name of Mountain living at Bury St. Edmund's, whose acceptance it purports to bear.

William James.—I am ledger-clerk at the banking-house of Messrs. Lees and company, bankers, where the bill is made payable; there is no person of the name of Mountain who keeps an account at our house.

Mr. Henry Mountain.—I live at Bury St. Edmund's; about nine months since, I was in the prisoner's employment; he was at that time carrying on business as a draper at Bury; I was an apprentice; there is no other Henry Mountain in that place besides myself, and I have never had any dealings with the prisoner on my own account, nor at any time owed him any money; the acceptance of the bill now produced is not in my handwriting, or by my authority.

Joseph Warren.—I am a draper at Bury St. Edmund's, and know the handwriting of Henry Mountain; the acceptance to this bill is not in his handwriting.

A. W. Robarts, Esq.—I am a partner in the house of sir William Curtis and company. Prisoner had applied to me on several occasions to discount bills. At one time I refused to comply with his request. A few days subsequently I received a letter from him, stating, that, in consequence of our house having refused to discount, and finding his affairs in an embarrassed state, he had determined on absenting himself for a short time.

The letter was here put in and read.

Edward Hurst examined.—In consequence of some information which I had received, I went, in company with a person named Forrester, to St. Helen's. We there went on board a ship bound for America. I found the prisoner in the cabin, and asked him, if his name was not Wilkinson, as I had a letter for him? He said it was. I then told him that I was a police-officer, and had a warrant against him on a charge of forgery. Prisoner was at the time

in the act of writing. There were several letters lying before him. I asked him if they were his? He replied that they were. I then took them from him, and put a mark upon them. The letter now produced is one of that number.

The letter was here put in and read: it was addressed to the editor of the *Times* newspaper, and purported to be written by a third person. It stated that the reports in circulation respecting the prisoner having absconded were unfounded.

This was the case for the prosecution.

The prisoner, on being called on for his defence, read the paper which he had previously handed up to the judge: it was to the following purport:—"I beg most respectfully to state, that I am not ready to take my trial, and I think I stated on Friday sufficient grounds to warrant the ordering it to be postponed, but the learned judges thought otherwise, and decided against the application. Their motives for so doing I do not impugn; they were, no doubt, guided by strict impartiality, and an equal love of justice, and on technical grounds they were perfectly right; but for the reasons I then stated, I have no means of defence; I have no access to my papers; but if my trial had been postponed till next sessions, I should have been fully prepared: however, that not being allowed, I shall not do myself or my cause the injustice of attempting a defence. I refrained from cross-examining any of the witnesses my persecutors have brought forward against me; nay, I even requested the learned counsel, whom I had retained on my behalf, to take no part in the proceedings; for, as my slight request was refused, I determined to let my persecutors have their own way, and quietly to submit to their malice, and the awful consequences that may attend it."

Mr. Justice Park recapitulated the evidence at great length. His lordship called the attention of the jury to the letter, which was proved to be written by the prisoner to the editor of the *Times*, and which stated that the prisoner had not fourteen children, but only ten, and that the amount of the forgeries which he had committed was not fourteen thousand pounds, as represented, but five thousand pounds, which would have been repaid, if the bankers had not refused to discount.

The jury consulted for a short time, and then returned a verdict of *Guilty*, but recommended him to mercy. The judge then intimated to the prisoner, that the prosecutors thought it proper to proceed against him on another indictment, which would be tried that day week, the fourth of November.

Joseph Hunton, the Quaker, was again put to the bar, charged with having feloniously forged the acceptance to a certain bill of exchange for ninety-four pounds thirteen shillings, dated the 23d of August, 1828, purporting to be drawn upon John Dixon, and accepted by Richard Luck, with a view to defraud sir William Curtis and company.

The second count charged, that he had uttered a like bill of exchange, well knowing it to be forged, with a view to defraud the same parties.

There were other counts in which it was alleged that the bill had been uttered with a view to defraud John Dixon and Richard Luck. The evidence was of precisely the same nature with that given upon the first trial; the acceptance being proved not to be in the handwriting of Mr. Luck, and to be in the handwriting of the prisoner. In his defence, the prisoner called Mr. Robarts, a partner of the banking-house which had discounted the bill, and examined him to the following effect.

Prisoner.—Was this bill discounted by the house of sir William Curtis and company, on account of the knowledge and opinion that it had of the acceptor, or on account of the knowledge and opinion that it had of myself?

Mr. Robarts.—This bill was not discounted by me on account of any knowledge I had of the acceptor; but purely upon the ground of the previous assurance of the prisoner that it was a *bona fide* transaction of business.

Prisoner.—Was there not at the time in the possession of sir William Curtis and company, a deed of assignment placed there by John Dixon and company as a collateral security for any bills that might be discounted ?

Mr. Robarts.—There is in our possession a deed of assignment purporting to be a collateral security to us for any bills or advances we might make to the house of John Dixon and company.

The prisoner then addressed himself to the jury to the following effect:—

" *Gentlemen,*—I stand before you in a situation, which renders any struggle or endeavour on my part to obtain an acquittal vain. When I was brought up on my former trial, I applied to the court to have it postponed, in order that I might have the opportunity of examining my books and accounts, and by that means be enabled to shape the form of my defence. That request, it appeared, could not be granted, and the trial proceeded. The natural consequences followed ; a case was established against me, I was unprepared with a defence, and was consequently convicted. I beg leave, however, to acknowledge my best thanks to the learned judge who presided on that occasion, for the very humane and impartial manner in which he put my case to the jury. It is true, that since my last trial, I have been offered the opportunity of using my books as I then requested, but it is now too late to be of any service to me. If that offer had been made before my conviction, I should have been able to have made an available defence; but, as I before said, it is now too late—I am already convicted. Any proof, therefore, that I might bring would be of no avail. The offer of the use of my books now, or of producing evidence, now that I have been found guilty, is in fact the same as to say to a man who has on a strait waistcoat, be free. Under these circumstances, I consider any defence that I might offer would be perfectly useless. I have now no money of my own. I took no money of any of my creditors when I endeavoured to escape from this land. The little that I had about me was advanced by my friends, and that was taken from me upon my apprehension. I was once in better circumstances, but since my bankruptcy I have had no supply which would enable me to enter into the expense of a defence aided by counsel. My friends, it is true, would have come forward for me now, as they did on the former occasion, had I not positively denied to give my consent to what I considered would be a wasteful expenditure of money. I have therefore no counsel, and can only throw myself upon the merciful consideration of the court and of the jury, reminding them that a wife and ten children are dependent upon my exertions for their existence."

The jury, after a short deliberation, said, they believed the prisoner to be guilty of uttering the bill with a knowledge of its having been forged, but they were not unanimous in the opinion that it had been uttered with a view to defraud.

Mr. Justice Park.—I cannot take such a verdict, gentlemen ; you must say whether you believe him to be guilty or not guilty of the general charge.

The jury again consulted for a short time, and then returned a verdict of *Guilty*, but begged to recommend the prisoner to mercy.

Mr. Justice Park.—Upon what ground, gentlemen ?

Foreman.—Upon the ground my lord, that a collateral security had been placed by him in the hands of sir William Curtis and company.

Mr. Justice Park.—If by that, gentlemen, you mean to acquit the prisoner of an intention of fraud, I cannot receive the verdict. I must tell you that the circumstance of there being a collateral security for bills or cash advanced in the regular way of business, and in *bona fide* transactions, is not sufficient to acquit the prisoner of fraud ; for, if he uttered the bill in question with a knowledge of its being a forgery, he must have done it with a view to defraud some one or another.

Some of the jury appeared anxious to argue the point with his lordship, but he cut them short by saying that it did not become the dignity of the bench to be reasoned with in such a manner. If the jury had any difficult

point in which his assistance was necessary, he should consider himself bound to give it. He had already made them acquainted with the law of the case. The facts were entirely for their consideration, and it was their duty to pronounce such a verdict as their consciences should direct.

The jury, after deliberating for a few minutes, returned a verdict of guilty upon the second count generally; but again strongly recommended him to mercy, not only upon the ground of the security before alluded to, but also upon that of his having a wife and large family dependent upon him.

There were three other indictments against the prisoner, but the prosecutors now declined to proceed on them.

Hunton being asked by the recorder, in the usual form, if he had any thing to say why sentence of death should not be pronounced, delivered, in reply, the following address:—

"I have but little to add to what I have already said in this court, except that, in all my transactions with my prosecutors, the idea of fraud or of injury to them never once entered into my mind; on the contrary, they know that I have endeavoured successfully to promote their interests, though at the expense of my own; and though I am convicted of having violated the law, yet, having given ample security to my prosecutors for the performance of my engagements with them, I hope I may be permitted to express that I am not conscious of any moral or wilful guilt with respect to them. I have lived more than half a century with a character hitherto of unimpeached integrity, of which ample testimonials can be produced. I have endeavoured conscientiously to discharge the duties which I owe to society, and have maintained and educated a numerous family, still under my care, with credit and reputation. I have now attained that period of life when I might have reasonably expected to have received some reward for my exertions; but a series of misfortunes and of losses, to an amount exceeding the usual lot of man, have entirely destroyed those expectations; and having given up all my property to satisfy the claims of my creditors, until those claims are adjusted, I am entirely destitute, and have hardly any property left which I can now call my own. If these circumstances are any alleviation for my having violated the law, or if they form a plea for the mitigation of punishment, may I earnestly entreat, for the sake of a most worthy and truly deserving wife—for the sake of ten most affectionate, most dutiful children, most of whom are in the early stages of life,—all of them innocent participators in and sufferers by my misfortunes, but whose heads will be lowered down to the very dust, if, in this period of adversity, with all their prospects of happiness destroyed, the extreme punishment of the law is inflicted on me, and the life of the husband and father, now almost their only consolation, be taken away. For the sake of these, may I most earnestly entreat, that, when the sentence now to be pronounced is laid before the king and council, these alleviating circumstances may be mentioned,—that the peculiarly defenceless situation in which I have been brought to trial, and especially that the very kind and very humane recommendations of both the juries by whom I have been tried, may also be communicated; and that I may be recommended as a suitable object of the royal clemency,—that I may be permitted to live the few remaining years which may be allotted me, until it may please Divine Goodness, in his infinite mercy, to call me from this state of probation in the regular course of nature; and that a life, which, though passed in a humble sphere, has, I trust, been of some use to society, may not be cut off by the most appalling of all deaths—by the hands of the executioner."

Sentence of death was then passed on him.

EXECUTION.

Joseph Hunton, the Quaker, convicted of uttering in forged bills, was executed on December 8, along with James Abbott, John James, and Joseph Mahoney. On no previous occasion had a larger multitude been assembled

to witness a similar spectacle. Ere daybreak, persons of all classes began to hurry to the spot, and many, as happened at the execution of Fauntleroy, took their places at windows, and upon the roofs of houses, which they had previously engaged and paid for, whilst the immense space in the Old Bailey surrounding the scaffold was crowded to suffocation, the mob extending, in a solid mass, from the barrier at the end of Fleet-lane, opposite the felon's side, to the end of the Old Bailey on Ludgate-hill. On the north side of the scaffold the populace was, if possible, more dense, and reached as far as Cock-lane, at the end of Giltspur-street, which was lined on each side by wagons and carts, to which the curious were admitted at a given sum. Hunton had composed his mind to meet his fate. He had been visited, on Sunday, by several ladies and gentlemen of the society of Friends, who were accommodated with an apartment, in which they remained in their peculiar devotions for several hours. At night he was attended by two elders of the congregation, who sat up with him in the press-room all night. During that time he composed a very long prayer, appropriate to his situation and approaching death. He copied it out, and directed it to "his dearly-beloved wife." At about half-past seven o'clock the two elders left him, after they had "kissed." When they were brought into the press-room, James, who had fixed his eyes upon Hunton, left his seat, and placing himself at the table, looked steadfastly upon the unhappy man, who, upon observing his vacant stare, said to him, "Well, friend, hast thou been up all night?"—"No," said James, "I slept a little."—"Ah" (with a sigh), replied Hunton, "I have sat up all night: place thy trust in Christ, and thou wilt be as happy as I am."—"I do, most sincerely," said James, "I hope it is all for the best."—"I hope so too," replied Hunton, feebly. When the officer was in the act of tying his wrists, he said, "Oh dear, is there any necessity to tie the cord so fast?" The officer made no reply, upon which Hunton said, "Well, well, thou knowest best." He again complained of the cord being too tight about his arms, and it was slackened a little. After he had been thus secured, he said, "Wilt thou allow me to wear my gloves?" and with some difficulty he put them on, and still kept the prayer addressed to his wife in his hand. James ascended the platform first, and walked to the railings, where he said, in a loud voice, "Good people, I acknowledge what I am brought here to die for. My sentence is just, and may God forgive me! Take warning by my dreadful death in the prime of my life—and God bless you all—farewell." He then submitted himself to the hangman. Mahoney next followed, and then Abbott. Hunton was now summoned by the officers. He turned round, and delivering the prayer to a friend, who attended him, even on the scaffold, each shook the other's hand, and kissed lips, Hunton observing, "You may say I am quite happy and comfortable, fare thee well." He then ascended the steps with firmness and deliberation, took his station under the beam, and requested that a blue handkerchief, to which he seemed fondly attached, might be fastened over his eyes, which was accordingly done. The signal was almost instantly given, and all the four died without a struggle.

CAPTAIN WILLIAM KIDD,

FOR MURDER AND PIRACY, UPON SIX SEVERAL INDICTMENTS, AT THE ADMIRALTY SESSIONS, AT THE OLD BAILEY, ON THURSDAY THE 8TH, AND FRIDAY THE 9TH OF MAY, 1701.

THE king's commission for holding the court being first read, the court proceeded to call the gentlemen summoned upon the grand jury, and seventeen persons were sworn.

Dr. Oxenden having given them the charge, and explained the nature of the commission, and the crimes inquirable by virtue of it, the grand jury withdrew, and after some time returned into court, and found the bill of indictment against captain Kidd, for murder, and another against him and Nicholas Churchill, James How, Robert Lamley, William Jenkins, Gabriel Loff, Hugh Parrot, Richard Barlicorn, Abel Owens, and Darby Mullins, for piracy.

Proclamation being then made, the prisoners were brought to the bar and arraigned. Captain Kidd for some time refused to plead, desiring to have Dr. Oldfish and Mr. Lemmon for his counsel, and that his trial might be deferred for want of two French passes that would vindicate him; but, being informed of the danger of not pleading, he at last pleaded with the rest, not guilty.

His first indictment being read for murder, and his counsel assigned him, he pleaded that his trial for piracy might be put off, for want of his witnesses and papers: then, the rest being set aside, he was ordered to be tried for murder.

The indictment being briefly opened by Mr. Knapp and the solicitor-general,

Joseph Palmer, being sworn, said, that meeting with the Loyal Captain, of which captain Hoar was commander, who came on board captain Kidd's ship, and Kidd went on board of him, and then captain Kidd let that ship go; about a fortnight afterward, William Moor, the gunner, was grinding his chisel on the deck, and captain Kidd said to him, "Which way could you have put me in to take this ship, and been clear?" to which Moor replied, "I never said such a thing, nor thought such a thing." Whereupon captain Kidd called him a lousy dog. "If I am a lousy dog," said Moor, "you have made me so; you have brought me to ruin, and many more." Upon which the captain said, "Have I brought you to ruin, you dog?" repeating it three or four times over; and, taking a turn or two upon the deck, took up a wooden bucket, hooped with iron, and struck him upon the right side of the head, near the right ear, which he saw; and then the gunner was carried down into the gun-room, and said, "Farewell, farewell, captain Kidd has given me the last—" (the captain being near enough to hear him). Of which bruise he died next day, who before was in good health; that he saw him when he was dead, and felt his head, and felt the skull give way, and that about the wound there was a bruise of a considerable breadth; and he believed he died of that blow; that, the surgeon being called to open his head, captain Kidd said, "You are d—d busy without order."

Robert Bradinham, who was surgeon to the ship, the Adventure Galley, whereof captain Kidd was master, deposed, that he was not by when the blow was given, but that, being sent for afterwards, the gunner told him, "he was a dead man; captain Kidd had given him his last blow;" and that he heard Moor say, "farewell, farewell, captain Kidd has given me my last blow:" and the captain replied, "D—n him, he is a villain;" that the wound was but small, and the skull fractured, of which he died the next day; that he knew of no difference between them before; but that, two months afterwards, conversing with the captain on the coast of Malabar, of this man's

death, he said he cared not so much for the death of his gunner, as for other passages of his voyage, for that he had good friends in England that would bring him off for that.

Captain Kidd, in his defence, said, that coming up within a league of the Dutchman, some of his men were making a mutiny about taking her; and his gunner told the people he would put his captain in a way to take the ship, and be safe; that, he asking how he would do that? the gunner answered, we will get the captain and men on board, and will then go aboard and plunder their ship, and will have it under their hands that we did not take her; that, he refusing, a mutiny arose, and then he threw the bucket at him.

The prisoner then called Abel Owens, who said, that the mutiny about taking the Dutch ship was a month before that man's death, that he saw the blow given; that captain Kidd did not throw, but took the bucket by the strap, and struck with it, and that there was no mutiny then.

Richard Barlicorn said there was a mutiny about taking the Dutch ship, and that Moor was for taking her; but that there was no mutiny when Moor was killed; that he did not see the blow given, which did but just touch him. He had been sick some time previous; and the doctor, when he visited him, said he did not die of that blow; and, though two witnesses had sworn that Moor died the next day, yet this witness said he believed he lived a week after.

Here Hugh Parrot being asked the reason of captain Kidd's striking Moor, said it was about not taking the Loyal Captain, which Kidd refused; but that this was a fortnight afterwards.

Here the prisoner said he had no more to say, but that he had all the provocation in the world given him, and had no malice against or design to kill him; which was in his passion, and he was sorry for it.

Lord chief-baron Ward having summed up the evidence, and captain Kidd then alleging he had witnesses to produce for his reputation, and the service he had done for the king, he was told by the court that he should have done that before, and that that could not help him in this case of murder. Then the jury, withdrawing for about half an hour, found him *Guilty*.

REMARKABLE CASE OF WITCHCRAFT,

BEFORE SIR MATTHEW HALE, 10TH MARCH, 1662.

AT the assizes, held at Bury St. Edmund's for the county of Suffolk, the 10th day of March, in the 16th year of the reign of king Charles II. before sir Matthew Hale, knight, lord chief-baron of his majesty's court of exchequer; Rose Cullender and Amy Duny, widows, both of Leystoff, in the county aforesaid, were severally indicted for bewitching Elizabeth and Anne Durent, Jane Bocking, Susan Chandler, William Durent, Elizabeth and Deborah Pacey. And the said Cullender and Duny, being arraigned upon the said indictments, pleaded not guilty.

The evidence whereupon these persons were convicted of witchcraft, stands upon divers particular circumstances.

Three of the parties above named, viz. Anne Durent, Susan Chandler, and Elizabeth Pacy, were brought to Bury, to the assizes, and were in a reasonable good condition; but that morning they came into the hall to give instructions for the drawing of their bills of indictments, the three persons fell into strange and violent fits, screaming out in a most dismal manner, so that they could not in any wise give instructions to the court. And, although they

did after some certain space recover out of their fits, yet they were every one of them struck dumb, so that none of them could speak neither at that time, nor during the assize, until the conviction of the supposed witches.

As concerning William Durent, being an infant, his mother Dorothy Durent sworn and examined, deposed in open court:—

That about the tenth of March, *Nono Caroli Secundi*, she having a special occasion to go from home, and having none in her house to take care of her said child, it then sucking, desired Amy Duny, her neighbour, to look to her child during her absence, for which she promised her to give her a penny. But the said Dorothy Durent desired the said Amy not to suckle her child, and laid a great charge upon her not to do it. Upon which it was asked by the court, why she did give that direction, she being an old woman, and not capable of giving suck? it was answered by the said Dorothy Durent, that she very well knew that she did not give suck, but that for some years before, she had gone under the reputation of a witch, which was one cause made her give her the caution: another was, that it was customary with old women, that if they did look after a sucking child, and nothing would please it but the breast, they did use to please the child to give it the breast, and it did please the child, but it sucked nothing but wind, which did the child hurt. Nevertheless, after the departure of this deponent, the said Amy did suckle the child: and after the return of the said Dorothy, the said Amy did acquaint her that she had given suck to the child contrary to her command. Whereupon the deponent was very angry with the said Amy for the same; at which the said Amy was much discontented, and used many high expressions and threatening speeches towards her, telling her, that she had as good have done otherwise than to have found fault with her, and so departed out of her house: and that very night, her son fell into strange fits of swooning, and was held in such terrible manner, that she was much affrighted therewith, and so continued for divers weeks. And the said examinant farther said, that she being exceedingly troubled at her child's distemper, did go to a certain person, named doctor Jacob, who liveth at Yarmouth, who had the reputation in the country to help children that were bewitched; who advised her to hang up the child's blanket in the chimney-corner all day, and at night when she put the child to bed, to put it into the said blanket, and if she found any thing in it she should not be afraid, but throw it into the fire. And this deponent did according to his direction, and at night, when she took down the blanket with an intent to put her child therein, there fell out of the same a great toad, which ran up and down the hearth, and she having a young lad only with her in the house, desired him to catch the toad, and throw it into the fire, which the youth did accordingly, and held it there with the tongs; and as soon as it was in the fire, it made a great and horrible noise, and after a space there was a flashing in the fire like gunpowder, making a noise like the discharge of a pistol, and thereupon the toad was no more seen nor heard. It was asked by the court, if that after the noise and flashing, the substance of the toad was not seen to consume in the fire? and it was answered by the said Dorothy Durent, that after the flashing and noise, there was no more seen than if there had been none there. The next day there came a young woman, a kinswoman of the said Amy, and a neighbour of this deponent, and told this deponent that her aunt (meaning the said Amy) was in a most lamentable condition, having her face all scorched with fire, and that she was sitting alone in her house, in her smock, without any fire. And thereupon this deponent went into the house of the said Amy Duny, to see her, and found her in the same condition as was related to her; for her face, her legs, and thighs, which this deponent saw, seemed very much scorched and burned with fire, at which this deponent seemed much to wonder, and asked the said Amy how she came into that sad condition? and the said Amy replied, she might thank her for it, for that she this deponent was the cause thereof, but that she should live to see some of her children dead, and herself upon crutches.

And this deponent farther saith, that after the burning of the said toad, her child recovered and was well again, and was living at the time of the assizes. And this deponent farther saith, That about the 6th day of March, 11 Car. II. her daughter Elizabeth Durent, being about the age of ten years, was taken in like manner as her first child was, and in her fits complained much of Amy Duny, and said, That she did appear to her, and afflict her in such manner as the former. And she, this deponent, going to the apothecaries for something for her said child, when she did return to her own house, she found the said Amy Duny there, and asked her what she did do there? and her answer was, that she came to see her child, and to give it some water. But she this deponent was very angry with her, and thrust her forth of her doors; and when she was out of doors, she said, You need not be so angry, for your child will not live long: and this was on a Saturday, and the child died on the Monday following; the cause of whose death this deponent verily believeth was occasioned by the witchcraft of the said Amy Duny: for that the said Amy hath been long reputed to be a witch, and a person of very evil behaviour, whose kindred and relations have been many of them accused for witchcraft, and some of them have been condemned.

The said deponent further saith, that not long after the death of her daughter, Elizabeth Durent, she this deponent was taken with a lameness in both her legs, from the knees downward, that she was fain to go upon crutches, and that she had no other use of them but only to bear a little upon them till she did remove her crutches, and so continued till the time of the assizes, when the witch came to be tried, and was there upon her crutches: —the court asked her, if at the time she was taken with this lameness, it were with her according to the custom of women? Her answer was, that it was so, and that she never had any stoppages of those things, but when she was with child.

This is the substance of her evidence to this indictment.

There was one thing very remarkable, that after she had gone upon crutches for upwards of three years, and went upon them at the time of the assizes in the court when she gave her evidence, and upon the jury's bringing in their verdict, by which the said Amy Duny was found guilty, to the great admiration of all persons, the said Dorothy Durent was restored to the use of her limbs, and went home without making use of her crutches.

II. As concerning Elizabeth and Deborah Pacey, the first of the age of eleven years, the other of the age of nine years or thereabouts: as to the elder, she was brought into the court at the time of the instructions given to draw up the indictments, and afterwards at the time of trial of the said prisoners, but could not speak one word all the time, and for the most part she remained as one wholly senseless, as one in a deep sleep, and could move no part of her body, and all the motion of life that appeared in her was, that as she lay upon cushions in the court upon her back, her stomach and belly, by the drawing of her breath, would arise to a great height: and after the said Elizabeth had lain a long time on the table in the court, she came a little to herself and sat up, but could neither see nor speak, but was sensible of what was said to her, and after a while she laid her head on the bar of the court with a cushion under it, and her hand and apron upon that, and there she lay a good space of time: and by the direction of the judge, Amy Duny was privately brought to Elizabeth Pacy, and she touched her hand; whereupon the child, without so much as seeing her, for her eyes were closed all the while, suddenly leaped up, and catched Amy Duny by the hand, and afterwards by the face; and with her nails scratched her till blood came, and would by no means leave her till she was taken from her, and afterwards the child would still be pressing towards her, and making signs of anger conceived against her.

Deborah the younger daughter, was held in such extreme danger, that her

parents wholly despaired of her life, and, therefore, could not bring her to the assizes.

The evidence which was given concerning these two children was to this effect.

Samuel Pacy, a merchant of Leystoff, aforesaid (a man who carried himself with much soberness during the trial, from whom proceeded no words either of passion or malice, though his children were so greatly afflicted), sworn and examined, deposeth :

That his younger daughter Deborah, upon Thursday the 10th of October last, was suddenly taken with a lameness in her legs, so that she could not stand, neither had she any strength in her limbs to support her, and so she continued until the 17th day of the same month, which day being fair and sunshiny, the child desired to be carried on the east part of the house, to be set upon the bank which looketh upon the sea; and whilst she was sitting there, Amy Duny came to this deponent's house to buy some herrings, but being denied, she went away discontented, but presently returned again, and was denied, and likewise the third time, and was denied as at first; and at her last going away, she went away grumbling; but what she said was not perfectly understood. But at the very same instant of time, the said child was taken with most violent fits, feeling most extreme pain in her stomach, like the pricking of pins, and screaming out in a most dreadful manner like unto a whelp, and not like unto a sensible creature. And in this extremity the child, continued to the great grief of the parents, until the 30th of the same month. During this time, this deponent sent for one Dr. Feavor, a doctor of physic, to take his advice concerning his child's distemper; the doctor being come, he saw the child in those fits, but could not conjecture (as he then told this deponent, and afterwards affirmed in open court, at this trial) what might be the cause of the child's affliction. And this deponent further saith, that by reason of the circumstances aforesaid, and in regard Amy Duny is a woman of an ill fame, and commonly reported to be a witch and sorceress, and for the said child in her fits would cry out on Amy Duny, as the cause of her malady, and that she did affright her with apparitions of her person (as the child in the intervals of her fits related), he, this deponent, did suspect the said Amy Duny to be a witch, and charged her with the injury and wrong to his child, and caused her to be set in the stocks on the 28th of the same October: and during the time of her continuance there, one Alice Leteridge and Jane Buxton, demanding of her (as they also affirmed in court upon their oaths) what should be the reason of Mr. Pacy's child's distemper? telling her, that she was suspected to be the cause thereof; she replied, "Mr. Pacy keeps a great stir about his child, but let him stay until he hath done as much by his children as I have done by mine." And being further examined what she had done to her children? she answered, "that she had been fain to open her child's mouth with a tap to give it victuals."

And the said deponent further deposeth, that within two days after speaking of the said words, being the 30th of October, the eldest daughter, Elizabeth, fell into extreme fits, insomuch, that that they could not open her mouth to give her breath, to preserve her life without the help of a tap, which they were enforced to use; and the younger child was in the like manner afflicted, so that they used the same also for her relief.

And further, the said children being grievously afflicted, would severally complain in their extremity, and also in the intervals, that Amy Duny (together with one other woman, whose person and clothes they described) did thus afflict them, their apparition appearing before them, to their great terror and astonishment: and sometimes they would cry out, there stands Amy Duny, and there Rose Cullender, the other person troubling them. Their fits were various: sometimes they were lame on one side of their bodies, sometimes on the other: sometimes a soreness over their whole bodies, so that they could endure none to touch them: at other times they would be restored to the perfect use of their

limbs, and deprived of their hearing; at other times of their sight, at other times of their speech; sometimes by the space of one day, sometimes for two; and once they were wholly deprived of their speech for eight days together, and then restored to their speech again. At other times they would fall into swoonings, and upon the recovery to their speech they would cough extremely, and bring up much phlegm, and with the same crooked pins, and one time a two-penny nail, with a very broad head, which pins (amounting to forty or more) together with the two-penny nail, were produced in court, with the affirmation of the said deponent, that he was present when the said nail was vomited up, and also most of the pins. Commonly at the end of every fit they would cast up a pin, and sometimes they would have four or five fits one day.

In this manner the said children continued with this deponent for the space of two months, during which time in their intervals this deponent would cause them to read some chapters in the New Testament. Whereupon this deponent several times observed, that they would read till they came to the name of Lord, or Jesus, or Christ; and then before they could pronounce either of the said words, they would suddenly fall into their fits. But when they came to the name of Satan, or the devil, they would clap their fingers upon the book, crying out, "this bites, but makes me speak right well."

At such times as they were recovered out of their fits (occasioned, as this deponent conceives, upon their naming of Lord, or Jesus, or Christ), this deponent hath demanded of them, what is the cause they cannot pronounce those words, they reply and say, "that Amy Duny saith, I must not use that name."

And farther, the said children, after their fits were past, would tell how that Amy Duny and Rose Cullender would appear before them, holding their fists at them, threatening, "that if they related either what they saw or heard, that they would torment them ten times more than ever they did before."

In their fits they would cry out, there stands Amy Duny, or Rose Cullender; and sometimes in one place and sometimes in another, running with great violence to the place where they fancied them to stand, striking at them as if they were present; they would appear to them sometimes spinning and sometimes reeling, or in other postures, deriding or threatening them.

And this deponent further saith, that his children being thus tormented by all the space aforesaid, and finding no hopes of amendment, he sent them to his sister's house, one Margaret Arnold, who lived at Yarmouth, to make trial, whether the change of the air might do them any good. And how, and in what manner they were afterwards held, he, this deponent, refers himself to the testimony of his said sister.

Margaret Arnold, sworn and examined, saith, that the said Elizabeth and Deborah Pacy came to her house, about the 30th of November last: her brother acquainted her, that he thought they were bewitched, for that they vomited pins; and farther informed her of the several passages which occured at his own house. This deponent said, that she gave no credit to that which was related to her, conceiving possibly the children might use some deceit in putting pins into their mouths themselves. Wherefore this deponent unpinned their clothes, and left not so much as one pin upon them, but sewed all the clothes they wore, instead of pinning them. But this deponent saith, that notwithstanding all this care and circumspection of hers, the children afterwards raised, at several times, at least thirty pins in her presence, and had most fierce and violent fits upon them.

The children would in their fits cry out against Rose Cullender and Amy Duny, affirming that they saw them; and they threatened to torment them ten times more, if they complained of them. At some times the children (only) would see things run up and down the house in the appearance of mice; and one of them suddenly snapped one with the tongs, and threw it into the fire, and it screaked out like a rat.

At another time, the younger child, being free from her fits, went out of doors to take a little fresh air, and presently a little thing like a bee flew upon her face, and would have gone into her mouth; whereupon the child ran in all haste to the door to get into the house again, screeching out in a most terrible manner; whereupon this deponent made haste to come to her, but before she could get to her, the child fell into a swooning fit, and at last with much pain, straining herself, she vomited up a two-penny nail with a broad head: and after that the child had raised up the nail she came to her understanding; and being demanded by this deponent, how she came by this nail? she answered, "that the bee brought this nail and forced it into her mouth."

And at other times, the elder child declared unto this deponent, that during the time of her fits, she saw flies come unto her, and bring with them in their mouths crooked pins; and after the child had thus declared the same, she fell again into violent fits, and afterwards raised several pins.

At another time this deponent declares that the said elder child, sitting by the fire, suddenly started up and said, "she saw a mouse," and she crept under the table looking after it, and at length she put something into her apron, saying, "she had caught it;" and immediately she ran to the fire and threw it in, and there did appear to this deponent something like the flashing of gunpowder, though she confessed she saw nothing in the child's hand.

At another time the said child being speechless, but otherwise of perfect understanding, ran about the house holding her apron, crying, "hush, hush," as if there had been some poultry in the house, but this deponent could perceive nothing; but at last she saw the child stoop, as if she had caught at something, and put it into her apron, and afterwards made as if she had thrown it into the fire; but this deponent could not discover any thing; but the child afterwards being restored to her speech, she, this deponent, demanded of her what she saw at the time she used such a posture? who answered, "that she saw a duck."

At another time the younger daughter being recovered out of her fits, declared, "that Amy Duny had been with her, and that she tempted her to drown herself, and to cut her throat, or otherwise to destroy herself."

At another time, in their fits, they both of them cried out upon Rose Cullender and Amy Duny, complaining against them; "why do you not come yourselves, but send your imps to torment us?"

These several passages, as most remarkable, the said deponent did particularly set down as they daily happened, and for the reasons aforesaid, she doth verily believe in her conscience that the children were bewitched, and by the said Amy Duny and Rose Cullender; though at first she could hardly be induced to believe it.

As concerning Anne Durent, one other of the parties, supposed to be bewitched, present in court.

Edmund Durent, her father, sworn and examined, said, that he also lived in the said town of Leystoff, and that the said Rose Cullender, about the latter end of November last, came into this deponent's house to buy some herrings of his wife, but being denied by her, the said Rose returned in a disconcerted manner; and upon the first of December after, his daughter, Anne Durent, was very sorely afflicted in her stomach, and felt great pain, like the pricking of pins, and then fell into swooning fits, and after the recovery from her fits she declared, "that she had seen the apparition of the said Rose, who threatened to torment her." In this manner she continued from the first of December, until this present time of trial; having likewise vomited up divers pins (produced here in court). This maid was present in court, but could not speak to declare her knowledge, but fell into violent fits when brought before Rose Cullender.

Anne Baldwin, sworn and examined, deposeth the same thing as touching the bewitching of the said Anne Durent.

As concerning Jane Bocking, who was so weak she could not be brought to the assizes—

Diana Bocking, sworn and examined, deposed that she lived in the same town of Leystoff, and that her said daughter having been formerly afflicted with swooning fits, recovered well of them, and so continued for a certain time; and upon the first of February last, she was taken also with great pain in her stomach, like pricking with pins, and afterwards fell into swooning fits, and so continued till the deponent's coming to the assizes, having during the same time taken no food, but daily vomited crooked pins, and upon Sunday last raised seven pins. And whilst her fits were upon her, she would spread forth her arms with her hands open, and use postures, as if she caught at something, and would instantly close her hands again, which being immediately forced open, they found several pins diversely crooked, but could neither see nor perceive how, or in what manner they were conveyed thither. At another time the said Jane being in another of her fits, talked as if she were discoursing with some persons in the room, though she would give no answer, nor seem to take notice of any person then present, and would in like manner cast abroad her arms, saying, "I will not have it, I will not have it," and at last she said, "then I will have it," and so waving her arm with her hand open, she would presently close the same, which being instantly forced open, they found in it a lath-nail. In her fits she would frequently complain of Rose Cullender and Amy Duny, saying, that now she saw Rose Cullender standing at the bed's feet, and another time at the bed's head, and so in other places. At last she was stricken dumb, and could not speak one word, though her fits were not upon her, and so she continued for some days; and at last her speech came to her again, and she desired her mother to get her some meat, and being demanded the reason why she could not speak in so long a time, she answered, that Amy Duny would not suffer her to speak. This lath-nail and divers of the pins were produced in court.

As concerning Susan Chandler, one other of the parties supposed to be bewitched, and present in court.

Mary Chandler, mother of the said Susan, sworn and examined, deposed and said, that about the beginning of February last past, the said Rose Cullender and Amy Duny were charged by Mr. Samuel Pacy for bewitching of his daughters. And a warrant being granted at the request of the said Mr. Pacy by sir Ed. Bacon, bart., one of the justices of the peace for the county of Suffolk, to bring them before him, and they being brought before him, were examined, and confessed nothing. He gave order that they should be searched; whereupon this deponent with five others were appointed to do the same; and coming to the house of Rose Cullender, they did acquaint her with what they were come about, and asked whether she was contented that they should search her? she did not oppose it, whereupon they began at her head, and so stripped her naked, and in the lower part of her belly they found a thing like a teat, of an inch long; they questioned her about it, and she said that she had got a strain by carrying of water, which caused that excrescence. But upon narrower search, they found in her privy parts three more excrescences or teats, but smaller than the former. This deponent further saith, that in the long teat, at the end thereof, there was a little hole, and it appeared unto them as if it had been lately sucked, and upon the straining of it there issued out white milky matter.

And this deponent further saith, that her said daughter being of the age of eighteen years, was then in service in the said town of Leystoff, and rising up early the next morning to wash, this Rose Cullender appeared to her, and took her by the hand, whereat she was much affrightened, and went forthwith to her mother, being in the same town, and acquainted her with what she had seen; but being extremely terrified, she fell extremely sick, much grieved at her stomach, and that night after being in bed with another young woman, she suddenly shrieked out, and fell into such extreme fits as if she were dis-

tracted, crying against Rose Cullender, saying "she would come to bed her." She continued in this manner, beating and tearing herself, insomuch that this deponent was glad to get help to attend her. In her intervals she would declare, that some time she saw Rose Cullender, at another time, with a great dog with her. She also vomited up divers crooked pins, and sometimes she was stricken with blindness, and at another time she was dumb, and so she appeared to be in court when the trial of the prisoners was, for she was not able to speak her knowledge; but being brought into the court at the trial, she suddenly fell into her fits, and being carried out of the court again, within the space of half an hour she came to herself, and recovered her speech; and thereupon was immediately brought into the court, and asked by the court whether she was in condition to take an oath, and to give evidence; she said she could. But when she was sworn, and asked what she could say against either of the prisoners? before she could make any answer, she fell into her fits, shrieking out in a miserable manner, crying, "burn her, burn her," which were all the words she could speak.

Robert Chandler, father of the said Susan, gave in the same evidence that his wife Mary Chandler had given; only as to the searching Rose Cullender as aforesaid.

This was the sum and substance of the evidence which was given against the prisoners, concerning the bewitching of the children before mentioned. At the hearing this evidence there were divers known persons, as Mr. Sergeant Keeling, Mr. Sergeant Earl, and Mr. Sergeant Barnard, present. Mr. Sergeant Keeling seemed much dissatisfied with it, and thought it not sufficient to convict the prisoners; for admitting the children were in truth bewitched, yet, said he, it can never be applied to the prisoners upon the imagination of the parties afflicted; for if that might be allowed, no person whatsoever can be in safety, for perhaps they might fancy another person who might altogether be innocent in such matters.

There was also Dr. Brown of Norwich, a person of great knowledge, who, after this evidence given, and upon view of the three persons in court, was desired to inform the court what he conceived of them; and he was clearly of opinion that the persons were bewitched; and said, that in Denmark there had been lately a great discovery of witches, who used the very same way of afflicting persons, by conveying pins into them, and crooked as these pins were, with needles and nails. And his opinion was, that the devil in such cases did work upon the bodies of men and women upon a natural foundation, that is, to stir up and excite such humours superabounding in their bodies to a great excess, whereby he did in an extraordinary manner afflict them with such distempers as their bodies were most subject to, as particularly appeared in these children; for he conceived, that these swooning fits were natural, and nothing else than what they call the mother, but only heightened to a great excess by the subtlety of the devil, co-operating with the malice of these whom we term witches, at whose instance he doth these villanies.

Besides the particulars above mentioned, touching the said persons bewitched, there were many other things objected against them, for a further proof and manifestation that the said children were bewitched.

And first, during the time of the trial, there were some experiments made with the persons afflicted, by bringing the persons to touch them; and it was observed, that when they were in the midst of their fits, to all men's apprehension wholly deprived of all sense and understanding, closing their fists in such manner as that the strongest man in the court could not force them open; yet by the least touch of one of these supposed witches, Rose Cullender by name, they would suddenly scream out, opening their hands, which accident would not happen by the touch of any other person.

And lest they might privately see when they were touched by the said Rose Cullender, they were blinded with their aprons, and the touching took the same effect as before.

There was an ingenious person that objected there might be a great fallacy in this experiment, and there ought not to be any stress put upon this to convict the parties; for the children might counterfeit this their distemper, and perceiving what was done to them, they might in such manner suddenly alter the motion and gesture of their bodies, on purpose to induce persons to believe that they were not natural, but wrought strangely by the touch of the prisoners.

Wherefore to avoid this scruple, it was privately desired by the judge, that the lord Cornwallis, sir Edmond Bacon, and Mr. Sergeant Keeling, and some other gentlemen there in court, would attend one of the distempered persons in the farther part of the hall, whilst she was in her fits, and then to send for one of the witches, to try what would then happen, which they did accordingly; and Amy Duny was conveyed from the bar, and brought to the maid: they put an apron before her eyes, and then one other person touched her hand, which produced the same effect as the touch of the witch did in the court. Whereupon the gentlemen returned, openly protesting that they did believe the whole transaction of this business was a mere imposture.

This put the court, and all persons, into a stand. But at length Mr. Pacy did declare, that possibly the maid might be deceived by a suspicion that the witch touched her when she did not. For he had observed divers times, that although they could not speak, but were deprived of the use of their tongues and limbs, that their understandings were perfect, for that they have related divers things which have been when they were in their fits, after they were recovered out of them. This saying of Mr. Pacy was found to be true afterwards, when his daughter was fully recovered (as she afterwards was), as shall in due time be related: for she was asked whether she did hear and understand any thing that was done and acted in the court during the time that she lay as one deprived of her understanding? and she said she did; and by the opinions of some, this experiment (which others would have a fallacy) was rather a confirmation that the parties were really bewitched than otherwise: for, say they, it is not possible that any should counterfeit such distempers, being accompanied with such various circumstances, much less children; and for so long time, and yet undiscovered by their parents and relations: for no man can suppose that they should all conspire together (being out of several families, and, as they affirm, no way related one to the other, and scarce of familiar acquaintance) to do an act of this nature, whereby no benefit or advantage could redound to any of the parties, but a guilty conscience for perjuring themselves in taking the lives of two poor simple women away, and there appears no malice in the case. For the prisoners themselves did scarce so much as object it. Wherefore, say they, it is very evident that the parties were bewitched, and that when they apprehend or understand by any means, that the persons who have done them this wrong are near, or touch them; then their spirits being more than ordinarily moved with rage and anger at them being present, they do use more violent gestures of their bodies, and extend forth their hands, as desirous to lay hold upon them; which at other times not having the same occasion, the instance there falls not out the same.

Secondly. One John Soam, of Leystoff aforesaid, yeoman, a sufficient person, deposeth, that not long since, in harvest-time, he had three carts which brought home his harvest; and as they were going into the field to load, one of the carts wrenched the window of Rose Cullender's house; whereupon she came out in a great rage, and threatened this deponent for doing that wrong, and so they passed along into the fields, and loaded all the three carts; the other two carts returned safe home, and back again, twice loaded that day afterwards; but as to this cart which touched Rose Cullender's house, after it was loaded, it was overturned twice or thrice that day; and after that they had loaded it again the second or third time, as they brought it through the gate which leadeth out of the field into the town, the

cart stuck so fast in the gate's-head, that they could not possibly get it through, but were forced to cut down the post of the gate to make the cart pass through, although they could not perceive that the cart did of either side touch the gate-posts. And this deponent further saith, that after they had got it through the gate-way, they did with much difficulty get it home into the yard; but for all that they could do, they could not get the cart near unto the place where they should unload the corn, but were fain to unload it at a great distance from the place, and when they began to unload they found much difficulty therein, it being so hard a labour that they were tired that first came; and when others came to assist them, their noses burst forth a bleeding; so they were fain to desist, and leave it until the next morning, and then they unloaded it without any difficulty at all.

Robert Sherringham also deposeth against Rose Cullender, That about two years since, passing along the street with his cart and horses, the axletree of his cart touched her house, and broke down some part of it, at which she was very much displeased, threatening him that his horses should suffer for it; and so it happened, for all those horses, being four in number, died within a short time after: since that time he hath had great losses by the sudden dying of his other cattle; so soon as his sows pigged, the pigs would leap and caper, and immediately fall down and die. Also, not long after, he was taken with a lameness in his limbs that he could neither go nor stand for some days. After all this, he was very much vexed with a great number of lice of an extraordinary bigness, and although he many times shifted himself, yet he was not any thing the better, but would swarm again with them; so that in the conclusion he was forced to burn all his clothes, being two suits of apparel, and then was clean from them.

As concerning Amy Duny, one Richard Spencer deposeth, that about the first of September last, he heard her say at his house, that the devil would not let her rest until she were revenged on one Cornelius Sanderwell's wife.

Anne Sanderwell, wife unto the abovesaid Cornelius, deposed, that about seven or eight years since, she having bought a certain number of geese, meeting with Amy Duny, she told her, if she did not fetch her geese home they would all be destroyed: which in a few days came to pass.

Afterwards the said Amy became tenant to this deponent's husband for a house, who told her, that if she looked not well to such a chimney in her house, that the same would fall: whereupon this deponent replied, that it was a new one; but not minding much her words, at that time they parted. But in a short time the chimney fell down, according as the said Amy had said.

Also this deponent farther saith, that her brother being a fisherman, and having to go into the Northern seas, she desired him to send her a firkin of fish, which he did accordingly; and she having notice that the said firkin was brought into Leystoff-road, she desired a boatman to bring it ashore with the other goods they were to bring; and she going down to meet the boatman to receive her fish, desired the said Amy to go along with her to help her home with it; Amy replied, she would go when she had it. And thereupon this deponent went to the shore without her, and demanded of the boatman the firkin: they told her, that they could not keep it in the boat from falling into the sea, and they thought it was gone to the devil, for they never saw the like before. And being demanded by this deponent, whether any other goods in the boat were likewise lost as well as hers? they answered, not any.

This was the substance of the whole evidence given against the prisoners at the bar; who being demanded what they had to say for themselves, they replied, nothing material to any thing that was proved against them. Whereupon the judge, in giving his direction to the jury, told them that he would not repeat the evidence unto them, lest by so doing he should wrong the evidence on the one side or on the other. Only this he acquainted them with,

that they had two things to inquire after. First, whether or no these children were bewitched. Secondly, whether the prisoners at the bar were guilty of it.

That there were such creatures as witches, he made no doubt at all; for, first, the Scriptures had affirmed so much. Secondly, the wisdom of all nations had provided laws against such persons, which is an argument of their confidence of such a crime. And such hath been the judgment of this kingdom, as appears by that act of parliament which hath provided punishments proportionable to the quality of the offence; and desired them strictly to observe their evidence; and desired the great God of heaven to direct their hearts in this weighty thing they had in hand; for to condemn the innocent, and to let the guilty go free, were both an abomination to the Lord.

With this short direction the jury departed from the bar, and within the space of half an hour returned, and brought them in guilty upon the several indictments, which were thirteen in number, whereupon they stood indicted.

This was upon Thursday, in the afternoon, March 13, 1662.

The next morning, the three children, with their parents, came to the lord chief baron Hale's lodgings, who all of them spake perfectly, and were in as good health as ever they were; only Susan Chandler, by reason of her great affliction, looked very thin and wan. And their friends were asked at what time they were restored thus to their speech and health, and Mr. Pacy did affirm, that within less than half an hour after the witches were convicted, they were all of them restored, and slept well that night, feeling no pain; only Susan Chandler felt a pain like pricking of pins in her stomach.

Afterwards they were all brought down to the court; but Anne Durent was so afraid to behold them, that she desired she might not see them. The other two continued in the court, and they affirmed in the face of the country, and before the witches themselves, what before had been deposed by their friends and relations—the prisoners not much contradicting them. In conclusion, the judge and all the court were fully satisfied with the verdict, and thereupon gave judgment against the witches, that they should be hanged.

They were much urged to confess, but would not.

That morning the judges departed for Cambridge, but no reprieve was granted; and they were executed on Monday the 17th of March following, but they confessed nothing to the last.

THE SALEM WITCHES.

At the latter end of the year 1691, Mr. Paris, pastor of the church in the village of Salem, in America, had a daughter of about nine years of age, and a niece of about eleven, afflicted with unaccountable distempers, as physicians that were consulted thought, and one of them judged they were bewitched. Mr. Paris had an Indian man servant, and his wife an Indian woman, who confessed, that without the knowledge of their master and mistress, they had taken some of the afflicted persons' urine, and mixing it with meal, had made a cake, and baked it, to find out the witch, as they said: after this, the afflicted persons cried out of the Indian woman, named Tituba, that she pinched, pricked, and grievously tormented them; and they saw her here and there, where nobody else could, and could tell where she was, and what she did when she was absent from them; these children were bitten and pinched by invisible agents; their limbs were racked and tormented, and miserably contorted, &c. Tituba was examined; who confessed the making of that cake, and said, her mistress in her own country was a witch,

and had taught her some means to be used for the discovery of a witch, and for preventing of being bewitched.

The justices at Salem examined the afflicted and accused together; and, upon the examination, Tituba confessed that she was a witch, and that she, and the other two accused, did torment and bewitch the complainers; and that these, with two others, whose names she knew not, had their witch-meetings together, relating the times when, and places where they met, with other circumstances.

Upon this, Tituba, Osburn, and Good were committed to prison, on suspicion of acting witchcraft. Soon after, these afflicted persons complained of others afflicting them in their fits; and the number of the afflicted and accused began to increase, and, upon examination, more confessed themselves guilty of the crimes they were suspected of, the number of confessors at length amounting to fifty: the justices, judges, and others concerned, used all conscientious endeavours to do what was right, according to former precedents in England, in the like cases. The matter was carried on chiefly by the complaints and accusations of the afflicted, and by the confessions of the accused, condemning themselves and others: yet experience showed, that the more were apprehended, the more were still afflicted; and the numbers of the confessors increasing, did but increase the number of the accused; and the executing of some made way for the apprehending of others: for still the afflicted complained of being tormented by new objects, as the former were removed; so that those that were concerned were amazed at the number and quality of the persons accused, and feared innocent persons suffered; and henceforth, the juries generally acquitted such as were tried, fearing they had gone too far before, and all were set at liberty, even the confessors.

About the end of the year 1692, one Joseph Ballard at Andover, whose wife was ill, and afterwards died of a fever, sent to Salem for some of those accusers, to tell him who afflicted his wife.

Mr. Dudley Bradstreet, a justice of peace in Andover, having granted out warrants, and committed thirty or forty persons to prisons, for the supposed witchcraft, at length refused to issue any more warrants; soon after which, he and his wife were accused; for he was said by them to have killed nine persons by witchcraft, and found it his safest course to make his escape.

Nineteen persons being now hanged, and one pressed to death, and eight more condemned, in all twenty-eight; about fifty having confessed themselves to be witches, of which not one was executed; about one hundred and fifty were in prison, and about two hundred more were accused, the special commission of Oyer and Terminer was closed; after which, six women, who had confessed themselves to be witches, gave under their hand, that they did it only in compliance with their nearest friends, who told them it was their only way to escape.

SUFFERERS FOR PRETENDED WITCHCRAFT IN SCOTLAND.

ALISON PEARSON.—1588.

Alison Pearson in Byre-hills, Fifeshire, was convicted of practising sorcery, and of invoking the devil. She confessed that she had associated with the queen of the fairies for many years, and that she had friends in the court of England, who were of her own blood. She said that William Simpson, late the king's smith, was, in the eighth year of his age, carried off by an Egyptian to Egypt, where he remained twelve years; and that this Egyptian was a giant: that the devil appeared to her in the form of this William

Simpson, who was a great scholar, and a doctor of medicine, who cured her diseases; that he has appeared to her, accompanied with many men and women, who made merry with bagpipes, good cheer, and wine: that the good neighbours attended, and prepared their charms over the fire; that the herbs of which they composed their charms, were gathered before sunrise; and that with these they cured the bishop of St. Andrews of a fever and flux. She underwent all the legal forms customary in cases of witchcraft, i. e. she was convicted and condemned, strangled and burned.

JANET GRANT AND JANET CLARK.—1590.

Janet Grant and Janet Clark were convicted of bewitching several persons to death, of taking away the privy members from some folks, and bestowing them on others, and of raising the devil.

JOHN CUNNINGHAM.—1590.

It was proved against John Cunningham, that the devil appeared to him in white raiment, and promised, that if he would become his servant, he should never want, and should be revenged of all his enemies: that he was carried in an ecstasy to the kirk of North Berwick, where the devil preached to him, and many others, bidding them not to spare to do evil, but to eat, drink, and be merry; for he should raise them all up gloriously at the last day: that the devil made him do homage, by kissing his ——. That he (the prisoner) raised the wind on the king's passage to Denmark: that he met with Satan on the king's return from Denmark; and Satan promised to raise a mist, by which his majesty should be thrown upon the coast of England; and thereupon threw something like a football into the sea, which raised a vapour.

AGNES SAMPSON.—1591.

Agnes Sampson in Keith, a grave matron-like woman, of a rank and comprehension above the vulgar, was accused of having renounced her baptism, and of having received the devil's mark; of raising storms to prevent the queen's coming from Denmark; of being at the famous meeting at North Berwick, where six men and ninety women, witches, were present, dancing to one of their number, who played to them on a Jew's harp. It was charged in the indictment, that the devil was present at this meeting, and started up in the pulpit, which was hung round with black candles; that he called them all by their names, asked them if they had kept their promises, and been good servants, and what they had done since the last meeting; that they opened up three graves, and cut off the joints from the dead bodies' fingers, and that the prisoner got for her share two joints and a winding-sheet, to make powder of to do mischief; that the devil was dressed in a black gown and hat; and that he ordered them to keep his commandments, which were, to do all the ill they could, and to kiss his ——.

At first Agnes denied the accusations brought against her by the king's majesty and the lords assembled; but being ordered to prison to undergo the torture, she returned to her judges in a frame of mind suitable to make the following confession, which is given in the words of Glanvil:—

CONFESSION OR AGNES SAMPSON TO KING JAMES, THEN OF THE SCOTS.

"*Item*, Fyled and convict for sameckle as she confessed before his majesty, that the devil in man's likeness met her going out in the fields from her own house at Keith, between five and six at even, being alone, and commandit her to be at North Berwick kirk the next night. And she past then on horseback, conveyed by her good-son, called John Cooper, and lighted at the kirk-yard, or a little before she came to it, about eleven hours at even. They danced along the kirk-yard; Geilie Duncan plaid to them on a trump; John Fien mussiled led all the rest; the said Agnes and her daughter followed

next. Besides, there were Kate Grey, George Moilis' wife, Robert Grierson, Katherine Duncan Buchanan, Thomas Barnhill and his wife, Gilbert Macgil, Joh. Macgil, Katherine Macgil, with the rest of their complices, above an hundred persons, whereof there were six men, and all the rest women. The women made first their homage, and then the men. The men were turned nine times widdershins about, and the women six times. John Fien blew up the doors, and blew in the lights, which were like mickle black candles, sticking round about the pulpit. The devil startit up himself in the pulpit like a mickle black man, and every one answered, "Here." Mr. Robert Grierson being named, they all ran hirdie girdie, and were angry: for it was promised he should be called Robert the Comptroller, alias Rob the Rower, all expriming of his name. The first thing he demandit was, as they kept for promise, and been good servants, and what they had done since the last time they had convened. At his command they opened up three graves, two within, and ane without the kirk, and took off the joints of their fingers, toes, and neise, and parted them amongst them: and the said Agnes Sampson got for her part a winding-sheet and two joints. The devil commandit them to keep his commandments, which were to do all the evil they could. Before they departed, they kissed his breech; the record speaks more broad, as I noted before. He had on him ane gown and ane hat, which were both black; and they that were assembled, part stood and part sate: John Fien was ever nearest the devil, at his left elbock: Graymaical keped the door."

The king now branded Agnes and her gang as a body of "extreme liars;" when, taking him a little aside, "she declared the very words which passed between the king's majesty and the queen at Upslo, in Norway, on the night of their marriage; whereat the king wondered greatly, and swore, by the living God, that he believed all the devils in hell could not have discovered the same, and gave the more credit to what she afterwards declared."

The above confession had its natural effect upon a weak mind. James, who before wavered in his belief, now became an advocate for the truth of the *damnable* doctrine of witchcraft; and in the third chapter of the second book of his *Dæmonologie*, has made a kind of paraphrase on the above deposition.

> Cummer, go ye before; cummer, go ye;
> If ye will not go before, cummer, let me!—

These are the words said to have been sung by Agnes Sampson, and two hundred of her associates, when they landed from their riddles or cives, and danced a reel on the shore of North Berwick, when on their way to hold their unhallowed meetings in the church.

"Moreover, Agnes confessed that at the time his majesty was in Denmarke, shee being accompanied with the parties before specially named, tooke a cat and christened it, and afterward bound to each part of that cat the cheefest part of a dead man, and several joyntes of his bodie; and the night following the said cat was conveyed into the middest of the sea by all these witches, sayling in their riddles or cives, as is aforesaid, and so left the said cat right before the town of Leith, in Scotland; this doone, there did arise such a tempest in the sea, as a greater hath not been seene. At another time John Fien attempting to catch a cat for that purpose, and she proving too nimble, he was carried about in the air after her in a wonderful manner."—

> Thus sung the witch of Keith; anon she sat
> Revelling with Satan.

Glanvil thus continues his relation. Agnes sailed "with her fellow witches in a boat to a ship, where the devil caused her to drink good wine, she neither seeing the mariners nor the mariners her. But after all, the devil raised a wind whereby the ship perished."

JOHN FIEN.

There shone the sorcerer Fien, of potent power.
The key-keeper of the air's artillery.

John Fien (alias Cunningham, alias doctor Fian), master of the school of saltpans, in Lothian, as well as Agnes Sampson, belonged to the East Lothian company. "That which is observable in John Fien," says Glanvil, "is, that the devil appeared to him, not in black, but in white raiment; but proposed as hellish a covenant to him, as those fiends that appear in black. As also lying dead two or three hours, and his spirit tane (as the phrase is the record is); his being carried or transported to many mountains, and, as he thought, through the world, according to his own depositions. His hearing the devil preach in a kirk in the pulpit, in the night by candle light, the candle burning blue. That in a conventicle, raising winds with the rest, at the king's passage into Denmark, by casting a cat into the sea, which the devil delivered to them, and taught them to cry *hola*, when they first cast it in. His raising a mist at the king's return from Denmark, by getting Satan to cast a thing like a foot-ball (it appearing to John like a wisp) into the sea, which made a vapour or reek to arise, whereby the king's majesty might be cast upon the coast of England. His hearing the devil again preach in a pulpit in black, who after pointed them to graves to open and dismember the corpse therein; which done, incontinently they were transported without words. His opening locks by sorcery, as one by mere blowing into a woman's hand while he sate by the fire. His raising four candles on the luggs of an horse, and another on the top of the staff of his rider in the night, that he made it as light as day; and how the man fell down dead at the entering within his return home," with several other charges similar to those mentioned in Agnes Sampson's indictment.

Geillies Duncan, who was his accuser, confessed that he was their clerk or register, and that no man was allowed to come to the devil's writings but he. "After thrawing of the doctor's head with a rope, whereat he would confess nothing, he was persuaded by faire means to confess his follies, but that would prevail as little," till at length, by dint of exquisite torture, he was compelled to confess any thing; and was then strangled and burnt on the castle-hill of Edinburgh, Jan. 1591.

"Most of the winter of 1591," says Spotswood, "was spent in the discovery and examination of witches and sorcerers. Amongst these Agnes Sampson, commonly called the Wise Wife of Keith, was the most remarkable." She confessed that the earl of Boswell had moved her to inquire what should become of the king, &c. Richard Graham, another notorious sorcerer, who was apprehended at the same time, made the like accusation against Bothwell.

Barbara Napier was convicted, May 8, 1591, for consulting Agnes Sampson, to give help to dame Jean Lyon, lady Angus; for which she was worried at a stake, and burned to ashes!

EUPHAN M'CALZEANE.—1591.

Euphan M'Calzeane was a lady possessed of a considerable estate in her own right. She was the daughter of Thomas M'Calzeane, lord Cliftenhall, one of the senators of the college of justice, whose death in the year 1581 spared him the disgrace and misery of seeing his daughter fall by the hands of the executioner. She was married to a gentleman of her own name, by whom she had three children. She was accused of treasonably conspiring the king's death by enchantments; particularly by framing a waxen picture of the king; of raising storms to hinder his return from Denmark; and of various other articles of witchcraft. She was heard by counsel in her defence; was found guilty by the jury, which consisted of landed gentlemen of note; and her punishment was still severer than that commonly inflicted on the wey-

ward sisters; she was burned alive, and her estate confiscated. Her children, however, after being thus barbarously robbed of their mother, were restored by act of parliament against the forfeiture. The act does not say that the sentence was unjust, but that the king was touched in honour and conscience to restore the children. But to move the wheels of his majesty's conscience, the children had to grease them, by a payment of five thousand merks to the donator of escheat, and by relinquishing the estate of Cliftonhall, which the king gave to sir James Sandilands, of Slamanno.

As a striking picture of the state of justice, humanity, and science, in those times, it may be remarked, that this sir James Sandilands, a favourite of the king's, *ex interiore principis familiaritate*, who got this estate, which the daughter of one lord of session forfeited, on account of being a witch, did that very year murder another lord of session in the suburbs of Edinburgh, in the public street, without undergoing either trial or punishment.

PATRICK LAWRIE.—1605.

Among many acts of witchcraft, for which Patrick Lawrie was committed to the flames, there were his consulting with, and receiving from, the devil a handbelt; in one end of which "appeared the similitude of four fingers and a thumb, not far different from the claws of the devil;" his bewitching Bessie Sands' corns, and taking the whole strength and substance out of them for ten years successively; his enchanting certain milk cows, which thereby, instead of milk, yielded nothing but blood and matter; and his curing Elizabeth Crawfurd's child, which, for eight or nine years, had been afflicted with an incurable disease.

MARGARET WALLACE.—1620.

Margaret Wallace was tried before the circuit court of justiciary. The duke of Lennox, the archbishop of Glasgow, and sir George Erskine of Innerteil, sat as assessors to the judges, and an eminent counsel was heard in behalf of the prisoner. She was accused of inflicting and of curing diseases by enchantment; but it was not specified what spells she employed. It was libelled against her, that on being taken suddenly ill she sent for one Christian Graham, a notorious witch, who afterwards suffered a capital punishment, and that this witch transferred the disease from the prisoner to a young girl: that the girl being thus taken ill, her mother was advised by the prisoner to send for Christian Graham, who answered, that her confidence was in God, and she would have nothing to do with the devil or his instruments; the prisoner replied, "that in a case of this sort, Christian Graham could do as much as God himself; and that without her aid, there was no remedy for the child:" but the mother not consenting, the prisoner, without her knowledge, sent for Christian, who muttered words, and expressed signs, by which she restored the child to health, &c. Her counsel urged, that the indictment was by much too general; that it ought to have been specified, not simply that she did enchant, but also by what kind of spells she performed her incantations: that supposing Christian Graham to have been a witch, and that the prisoner when taken ill consulted her, still he was entitled to plead that the prisoner consulted her on account of her medical knowledge, and not for her skill in sorcery: that as to the blasphemous expressions, however well they might found a trial for blasphemy, they by no means inferred the crime of witchcraft; and he quoted many authorities from the civil and canon laws. He farther challenged one of the assizers, because one of the articles charged against the prisoner was her having done an injury to his brother-in-law. The whole defences were repelled by the judges; and the jury found the prisoner guilty.

ISOBEL YOUNG.—1629.

Isobel Young, in East Barns, was accused of having stopped, by enchantment, George Sandie's mill, twenty-nine years before; of having prevented his boat from catching fish, while all the other boats at the herring-drave, or herring-fishery, were successful; and that she was the cause of his failing in his circumstances, and of nothing prospering with him in the world: that she threatened mischief against one Kerse, who thereupon lost the power of his leg and arm: that she entertained several witches in her house, one of whom went out at the roof in likeness of a cat, and then resumed her own shape: that she took a disease off her husband, laid it under the barn floor, and transferred it to his nephew, who, when he came into the barn, saw the firlot hopping up and down the floor: that she used the following charm to preserve herself and her cattle from an infectious distemper, viz. to bury a white ox and a cat alive, throwing in a quantity of salt along with them: that she had the devil's mark, &c. The defences for the prisoner were overruled. Is it needful to add, that she was convicted, strangled, and burned!

This most incredibly absurd and iniquitous doctrine, of repelling defences because contrary to the libel; this system of legal murder, was (says Mr. Arnot), till the present century, a received maxim of criminal jurisprudence in Scotland.

About this time a warlock drove a lucrative trade, called Sandie Hunter (alias Hamilton), whom it is said the devil nicknamed Hattaraick. He was originally a knolt herd in East Lothian, and was famous for curing diseases both in man and in beast, by words and charms. Wherever Hattaraick went, none durst refuse him alms. One day he came to the gate of Samuelston, when some friends after dinner were taking to horse. A young gentleman, brother to the lady, switched him about the ears, saying, "You warlock carle, what have you to do here?"—whereupon the fellow went away grumbling, and was heard to say, "You dear by this ere it be long." After supper the gentleman took horse and departed, and crossing Tyne water to go home, he passed through a shady piece of haugh called the Allers. What he saw there he would never reveal; but next day he was in a high state of delirium, and had to be bound. The lady Samuelston hearing of this said, "Surely the knave Hattaraick is the cause of this trouble, call for him in all haste." When the warlock came, "Sandie," says she, "what is this you have done to my brother William?"—"I told him," replied he, "I should make him repent of his striking me at the yait lately." She giving the rogue fair words, and promising him his sack full of meal, with beef and cheese, persuaded the fellow to cure him, which was speedily effected. When Hattaraick came to receive his wages, he told the lady her brother would shortly leave the country never to return; upon which, she caused him to make a disposition of his property to the defrauding of his brother George. After the warlock had pursued his lucrative calling for some time, he was apprehended at Dunbar, taken to Edinburgh, and burnt on the Castle-hill.

ALEXANDER HAMILTON.—1630.

Alexander Hamilton (if we may trust his judicial confession) met the devil in the likeness of a black man, riding on a black horse. Hamilton renounced his baptism, and engaged to become the devil's servant, from whom he received four shillings sterling. When he wanted an audience of his infernal majesty, he was instructed to beat the ground thrice with a fir-stick, and say, "rise up, foul thief;" and accordingly the devil used to obey the summons, and appeared in the shape of a raven, a cat, or a dog, and gave responses. The devil instructed him how to be revenged of his enemies; also, how to cure and transfer diseases; and further, gave him a spell, by which he killed the lady Ormestone and her daughter, in revenge of the

lady's having refused him the loan of a mare, and having called him nick-names. Lastly, he declared he had many meetings with the devil, from whom he once got a severe drubbing for not keeping an appointment.

JOHN NEIL.

John Neil was charged with taking off and laying on diseases, the former of which he sometimes effected by making the sick person's shirt be washed in a south-running water. With giving responses concerning the time and manner of people's death. With holding consultation with the devil, and witches, on Coldinghim law, how to compass the death of sir George Home of Manderston. That the result of their deliberation was the getting an enchanted dead foal and putting it in sir George's stable, under his stoned-horse's manger; also a dead hand enchanted by the devil, which they put in sir George's garden; and that by these means he contracted a grievous disease, of which he could not be recovered, till the dead foal and dead hand were discovered and burned. No pleading, no deposition of witnesses, no confession of the prisoner is recorded; but the jury found the usual verdict, and the usual sentence was pronounced by the court.

JANET BROWN, AND OTHERS.—1640.

An act and commission of parliament was passed on the 12th of July, and another on the 7th of August, 1649,* constituting sir James Melville of Raith, Alexander Orrock of Orrock, Robert Aytoun of Inchdarnie, and certain baillies of Burntisland, judges, with powers to try certain persons for the crime of witchcraft. Janet Brown was first brought before them. She was charged in the indictment with having held a meeting with the devil appearing as a man, at the back of Broom-hills, who was at a wanton play with Isabel Gairdner, elder, and Janet Thompson; and he vanished away like a whirlwind. With having there renounced her baptism, upon which the devil

* The following is the expense of burning a witch in Scotland in this year:—

The accompt is a voucher of a payment made by Alexander Louddon, factor on the estate of Burncastle, the proprietor being then a minor and infant. It is entered in the factor's books thus:—

"Mair for Margarit Dunhome the time sche was in prison, and was put to death, 065 : 14 : 4."

Count gifin out be Alexander Louddon in Lystoun, in ye yeir of God 1649 *yeiris, for Margrit Dollmoune in Burncastell.*

Item, in the first, to Wm. Currie and Andrew Gray for the watching of hir ye space of 30 days, inde ilk day, xxx sh inde	xlv lib Scotts
Item mair to Jon Kinked for brodding of her	vi lib Scotts
Mair for meat and drink and wyne to him and his man	iiij lib Scotts
Mair for cloth to hir	iij lib Scotts
Mair for twa tare treis	xl sh Scotts
Item mair for twa treis, and ye making of them, to the warkmen	iij lib Scotts
Item to ye hangman in Hadingtoun, and fetchin of him, thrie dollores for his pens, is	iiij lib Scotts
Item mair for meit and drink and wyne for his intertinge	iii lib Scotts
Item mair for ane man and twa horss, for ye fetching of him, and taking of him hame agane	xi sh Scotts
Mair to hir for meit and drink ilk ane day, iiij sh the space of xxx dayes, is	vi lib Scotts
Item mair to ye twa officers for yr fie ilk day sex shilline aught pennes, is	x lib Scotts

Summa is iiij scoir xiii lib xiiij sh

Ghilbert Lauder.
Um. Lander Bilzaurs.

Takin of this above written some twentie-seaven pundis Scotis ql the said umql Margrit Dinham had of her ain

92 : 14 : —
27 : — : —
———
65 : — : —

sealed her as one of his, by a mark on the right arm, into which Mr. James Wilson, minister of Dysart, in presence of Mr. John Chalmers, minister at Auchterderran, thrust a long pin of wire into the head, and she was insensible of it. And the like experiment was tried in presence of Mr. Dalgliesh, minister at Cramond, &c. The prisoner, and two other women, were convicted, condemned, and executed in one day.

Within a few days after, other three miserable women arrived at the last stage of a common journey in those days of superstitious ignorance, viz. from the parson of the parish to the criminal judges, and from the criminal judges to the executioner. They were arraigned before the same tribunal, on the hacknied charge of meeting with the devil. One of them, Isobel Bairdie, was accused of taking up a stoup, *i. e.* a flagon, and drank, "and the devil drank to her, and she pledging him, drank back again to him, and he pledged her, saying, Grammercie, you are very welcome." In each of the three indictments, it is added, that the prisoner had confessed, in presence of several ministers, baillies, and elders. And it appears from the verdict of the jury, that these inquisitors were produced before the court, to prove the extrajudicial confessions of the miserable prisoners, who had already been harassed, perhaps out of their senses, or rendered weary of life by the persecutions of brutish ignorance and diabolical cruelty.

The jury found the prisoners guilty of the said crime of witchcraft, and that they deserve to die therefore, but referring the manner of their death to the said judges their determination. The judges ordained them to be taken that same afternoon to the place of execution, and there to be strangled at a stake and burned.

THE SAMUELSTON WITCHES.

The lands of Samuelston were so much infested by the "weird sisters" in 1661, that John, earl of Haddington, to appease his tenants, was under the necessity of presenting a petition to his majesty's commissioner for the purpose of getting them tried by a court of judicature. The following extract from this commission, shows that the arts of darkness continued to be practised by numerous bodies to the no small terror of the lieges:—

COMMISSION FOR JUDGEING OF WITCHES, &C. IN SAMUELSTON.

"Edr, 3d Apryll 1661.

To the Right Hon. His Maties Commissioner, his Grace, and the Lordis, and Others of the Parliament appoyntit for the Articles. The humble petitioun of Johne Earl of Hadintoun.

Sheweth,—That upon severall malefices committit of late within and about my landis of Samuelstoune, thair being severall persones suspect of the abominable sin of witchcraft, apprehendit and searched, the markes of witches wer found on thame in the ordinarie way. Severallis of thame haif made confessioun, and haif dilatit sundrie others within the saidis boundes, and haif acknowledged pactioun with the devile. Thair names are these, Elspet Tailyeor in Samuelstoune, Margaret Bartilman, Mareoun Quheitt, Jonet Carfrae. These haif made confessioun alreadie. Otheris they haif dilatit as partakeris of the same cryme with thame, viz. Christiane Deanes, Agnes Williamsone. Thes are dilatit be the former, and the markes ar found on thame, quha ar lykwayes apprehendit, otheris ar lykwayes dilatit by thame, namelie, Helene Deanes, George Milnetowne, Patrik Cathie, Anna Pilmure, Elizabeth Sinclair, Margaret Baptie, Jonet Maissone, and Margaret Argyle, Elspeth Crawfurd. Thes ar dilatit be the former confessing, bot ar not as yet apprehendit nor searched. And trew it is, that throw the frequencie of the said sin of witchcraft, in the saidis boundes, my haill tenentes there threatnes to leave my ground without justice be done on thes persones. And becaus the lawes ar now silent, this sin becomes daylie more frequent. Also, thair (ar) two otheris persones apprehendit for thift in the foresaid boundes,

quhom I haif intertained in prisone, within the tolbuith of Hadingtoun, upon my awin chairges thes ten weikis bygane, within the tolbuith of Edinburgh, upon my own chairges."

The lord commissioner and lords of the articles, after hearing the petition, granted a commission for putting to death such of the above persons as were found guilty of witchcraft by confession, and for trying others, which was to have been put into execution.

A few years had only elapsed, when, to appease the ravings of superstition, another race of ill-fated women were doomed to the fagots. In 1677, Elizabeth Moodie, a poor hypochondriac servant-woman, in Haddington, was imprisoned as a witch, and (as usual) made confessions, and accused others. The account of her imprisonment is mentioned in the council records of the burgh, 20th April, 1677. "The whilk day, John Sleich, younr. being commissionat to consult my Lord Advocat anent Elizabeth Moodie, imprisoned as a witch, judged it convenient that the prisoner should confess before a fenced court, and to subscribe before two notars and four witnesses, whilk accordingly is done,—and she delated oyrs, the councill ordaines them to be apprehended and (examined), refers the way thereof to the magistrates.

"The counsell appoints John Sleich, younr. to be their commissioner to go to Edinburgh with the confessions and delations of the witches, and obtain from the secret councill commissions for trial and assisse."

The concluding part of these barbarous proceedings are detailed in *lord Fountainhall's M.S.* "There is one Margaret Kirkwood (says he) in Hadington, that hangs hirselfe; some say she was so strangled by the devill and witches. The same happened on a Sunday, in the afternoon: shee hes a serving woman in the church, called Elizabeth Moodie, who makes some disturbance and noise during the sermon, and numbers till shee reach fifty-nine, which was her mistress's age, and then cryes, the turne was done, which was found to be the very instant in which her mistresse was making away hirselfe: upon this being apprehended and examined, shee denied till shee was searched and pricked; and after the alledged marques were found upon hir, shee confessed hirselfe to be a witch, (*shee was burnt for it in the beginning of June*, 1677!) and the particular circumstances of it, as I heard her acknowledge them. The said Margaret Kirkwood, who hanged herselfe, being wealthie, there were severalls who put in for the gift of her escheat, amongst others the toune of Hadington."

ISOBEL ELLIOT, AND NINE OTHER WOMEN.—1678.

Isobel Elliot and nine other women were tried for witchcraft in one day. The articles of indictment against all of them were pretty much the same. Those exhibited against Isobel Elliot were as follows: that about two years ago she staid at home from the kirk at the desire of her mistress, who was a witch, when the devil had a meeting with the prisoner, her mistress, and two other witches; that he kissed the prisoner, baptized her on the face with an waff of his hand like a dewing, and offered to lie with her, but forbore because she was with child; that after she was kirked the devil often met her, and had carnal copulation with her. The prisoner and the nine other miserable women underwent all the legal forms incident to their unhappy situation among that deluded and barbarous people. They had been prosecuted by his majesty's advocate; they judicially acknowledged their guilt, were convicted by the jury, condemned by the judges, and burned by the executioner, for having had carnal copulation with the devil.

IMPOSTOR OF BARGARRAN.—1696.

Some years after, an impostor appeared, in the character of a person tormented by witches, Christian Shaw, daughter of John Shaw, of Bargarran, a gentleman of some note in the county of Renfrew. She is said to have been but eleven years of age; and her challenging one of the house-maids for

drinking, perhaps for stealing, a little milk, which drew on her an angry retort, was the prelude to a complicated and wonderful scene of artifice and delusion, of fanaticism and barbarity.

In the month of August, 1696, within a few days after her quarrel with the house-maid, the girl was seized with hysterical convulsions, which in repeated fits displayed that variety of symptoms which characterize this capricious disease. To these, other appearances were speedily added, which could only be attributed to supernatural influence, or to fraud and imposition. She put out of her mouth quantities of egg-shells, orange-peel, feathers of wild, and bones of tame fowl, hair of various colours, hot coal-cinders, straws, crooked pins, &c.

She spoke as follows to the chief of her alleged tormentors, Catherine Campbell, with whom she had the quarrel, and who, to use the language of those times, was not discernibly present: "thou sittest with a stick in thy hand to put into my mouth, but through God's strength thou shalt not get leave: thou art permitted to torment me, but I trust in God thou shalt never get my life. I will let thee see, Katie, there is no repentance in hell. O what ailed thee to be a witch! thou sayest it is but three nights since thou wast a witch. O, if thou wouldst repent, it may be God might give thee repentance, if thou wouldst seek it, and confess; if thou would desire me, I would do what I could, for the devil is an ill master to serve," &c. &c.

When the sheriff-depute of the county, accompanied by a macer of justiciary, came to apprehend some of the persons whom her diabolical malice had accused, and were actually in her presence, she addressed an imaginary and invisible correspondent thus: "Is the sheriff come? is he near me?" (Then stretching forth her hand, as if to grope, and the sheriff putting his hand into hers, she proceeded:) "I cannot feel the sheriff; how can he be present here? or how can I have him by the hand, as thou sayest, seeing I feel it not? Thou sayest he has brown-coloured clothes, red plush breeches, with black stripes, flowered muslin cravat, and an embroidered sword-belt: thou sayest there is an old gray-haired man with him, having a ring upon his hand; but I can neither see nor feel any of them. What are they come to apprehend the gentlewoman? is this their errand indeed?"

The clergy were the foremost to embrace the cause of a disciple that was engaged in more than spiritual warfare with the grand enemy. Clergymen, by rotation, attended the afflicted damsel, to assist the minister of the parish, the family of Bargarran, and other pious Christians, in the expiatory offices of fasting and prayer. A public fast was ordained by authority of the presbytery.

On the 19th of January, a warrant of privy council was issued, which set forth, that there were pregnant grounds of suspicion of witchcraft in the shire of Renfrew, especially from the afflicted and extraordinary condition of Christian Shaw, daughter of John Shaw, of Bargarran.

In the report which was presented on the 9th of March, the commissioners represented that there were twenty-four persons, male and female, suspected and accused of witchcraft, and that further inquiry ought to be made into this crime. Among these unhappy objects of suspicion, it is to be remarked, that there was a girl of fourteen, and a boy not twelve years of age. Agreeable to this report, a new warrant was issued by the privy council, to take trial of, judge, and do justice upon the foresaid persons; and to sentence the guilty to be burned or otherwise executed to death, as the commissioners should incline.

The commissioners, thus empowered, were not remiss in acting under the authority delegated to them. After twenty hours were spent in the examination of witnesses, who gave testimony that the malefices libelled could not have proceeded from natural causes, and that the prisoners were the authors of these malefices; after five of the unhappy prisoners confessed their own guilt, and criminated their alleged associates; after counsel had been heard

on both sides, and the counsel for the prosecution had declared that he would not press the jury with the ordinary severity of threatening an assize of error, but recommended them to proceed according to the evidence; and loudly declared to them, that although they ought to beware of condemning the innocent, yet if they should acquit the prisoners, in opposition to legal evidence, they would be accessary to all the blasphemies, apostasies, murders, tortures, and seductions wherof these enemies of heaven and earth should hereafter be guilty. After the jury had spent six hours in deliberation, seven of those miserable persons were condemned to the flames.

The last person who was prosecuted before the lords of justiciary for witchcraft in Scotland, was Elspeth Rule, who was tried before lord Anstruther at the Dumfries circuit, on the 3d of May, 1709. No special act was charged against her; the indictment was of a very general nature, that the prisoner was habit and repute (that is, generally holden and deemed) a witch; and that she had used threatening expressions against persons at enmity with her, who were afterwards visited with the loss of cattle, or the death of friends, and one of whom run mad. The jury, by a majority of voices, found these articles proved, and the judge ordained the prisoner to be burned on the cheek, and to be banished Scotland for life. The last person who was brought to the stake in Scotland for the crime of witchcraft, was condemned by captain David Ross, of Little Daan, sheriff-depute of Sutherland, A.D. 1722.

TRIAL BY COMBAT,

BETWEEN SIR JOHN ANNESLEY, KNIGHT, AND THOMAS KATRINGTON, ESQ. IN 1380.

Sir John Chandois, a famous soldier in the reign of Edward III., had, for his eminent services in the French wars, a grant made him of the barony of St. Saviour's, in the Isle of Constantine, in the dutchy of Normandy, where he built St. Saviour's castle; but he died without issue, leaving his three sisters his heirs. Sir John Annesley married one of them. The command of the castle being committed to the care of Katrington, who surrendered it to the French, Annesley charged him, that he had sold it, being under no necessity to give it up, and being sufficiently provided with men, ammunition, and provisions; and he offered, for want of more sufficient proof, to try the question by combat with Katrington. Upon which, the day and place were appointed, and all things got ready; while the concourse of people who came to London to see this trial, was thought to exceed that at the king's coronation.

The 7th day of June, 1380, was the day appointed; upon which the king, nobility, and commonalty repaired in the morning to the lists, into which sir John Annesley, being well armed and mounted on a fine horse, splendidly trapped, first entered as appellant, waiting till his adversary came; and soon after the defendant was summoned to come and defend his cause, in the following form: "Thomas Katrington, defendant, come and appear to save the action, for which sir John Annesley, knight, and appellant, has publicly and by writing appealed thee." Being thus cited thrice to appear by a herald, he came at the third summons, likewise armed, being mounted on a horse, with trappings embroidered with his arms.

Katrington, whose conscience was thought to be far from clear, seemed to be in much confusion, and raised exceptions, and offered reasons, to make it believed that he was in the right; but the duke of Lancaster finding him

thus demur, swore, that unless he would, pursuant to the rules of combat, and the laws of arms, acquiesce, he should be forthwith executed, as guilty of high-treason. Katrington hearing this, said aloud, that he durst fight with sir John upon this or any other quarrel, for he trusted, says the Chronicle, more to the strength of his body, and the favour of his friends, than to the cause he had undertaken to defend: for he was indeed a very lusty man, whereas the appellant was among the least of those of a middle stature.

The appellant and defendant both, before they began the combat, were obliged to take an oath, that the cause for which they were to fight was just and true, and that they had nothing to do with witchcraft or magic; nor that they carried about them any herb or stone, or other kind of charm! When this was done, and both had performed their devotions, they prepared themselves to fight, first with their spears, then with their swords, and last with their daggers. They fought a long time, but at length the appellant disarmed his enemy of all his weapons, and bore him down to the ground: his design was to fall upon him, but the sweat that ran from under his helmet dazzling his sight, he fell down at some distance from him; which being observed by Katrington, though he was quite spent in the action, yet he made towards the knight, and threw himself upon him.

The king now ordered proclamation to be made, that they should proceed no further, his majesty designing to decide between them; but the knight entreated those that came to help him up, to request the king to let them lie still, for he thanked God he was very well, and did not doubt of the victory, if they would replace his adversary upon him in the same posture as before; but that being not granted, they took him up, and he was no sooner upon his feet, but he cheerfully walked to the king, without assistance; whereas Katrington could neither stand nor move without two men to support him, and therefore he was set in a chair to rest, and recover his strength.

Then the king and his council, finding the knight resolutely bent on trying out the combat, decreed they both should be put into their former posture; the defendant in the interim was seized with a fainting fit, and fell out of his chair, as though he would have died on the spot; upon which, the by-standers threw wine and water into his face, and pulled off his armour and other apparel, which was taken as a proof of the knight's victory, by the help of God; and so it was adjudged.

Katrington soon after came to himself, opened his eyes, and held up his head, but looked very ghastly, which being told sir John Annesley, he went to him in his armour, and calling him traitor and a wicked perjurer, asked him if he durst encounter with him any more; but Katrington having neither sense nor spirit to give him an answer, proclamation was made that the combat was over.

Katrington, upon being conveyed to his lodgings, was put to bed; but he soon went raving mad, and so continued till nine o'clock the next day, when he expired.

JAMES GEORGE LISLE, *alias* MAJOR SEMPLE,

FOR STEALING.

On the 18th of February, 1795, at the sessions in the Old Bailey, major Semple was indicted by the names of James George Lisle, alias Semple, for stealing in the shop of Mr. Wattleworth, in Wigmore-street, one yard of muslin, two yards of calico, and one linen shirt.

—— Todd, servant to Mr. Wattleworth, gave in evidence, that the prisoner came into their shop about noon on the 10th of November, and showing two

patterns, one of muslin, and the other of calico, said he wanted them matched for Mrs. Coningham, of Egham-green; they had not exactly the same pattern as the muslin: but he chose one, and a yard being cut off, and two yards of calico, he said he would give them to the lady's servant, who was at the door, and calling in a man, gave them to him. He then asked if Mr. Wattleworth was at home, saying, he wanted some shirts; as he was showing him some, Mr. Wattleworth came in, on which the witness left them together, but afterwards came and took his name as lieutenant-colonel Lisle, which he entered in a book, and reading that, as well as Mrs. Coningham's, at Egham-green, to whom the muslin and calico was set down, the prisoner replied, it was very right.

Mr. Wattleworth confirmed Todd's testimony, as to his coming in while he was serving the prisoner, and then said, that the major stated himself to have just arrived from the continent, and that he should want a quantity of shirts, and wished to take one with him to consult his sister, who, he thought would be a better judge of the linen than he was; that he would bring it back in the morning, and then give his order. The sister he called Coningham, and as the witness had a customer of that name, he made no hesitation, but gave him the shirt under these conditions. This happened in November; but he never saw the prisoner again until January, when he was in custody at Bow-street.

In his cross-examination, he admitted, that he had credited a Mrs. Coningham for the muslin and calico; but that he had afterwards made every inquiry at Egham, without being able to find that any such person lived there. He also admitted, that after the major was in custody, some person came and asked him, if the articles were paid for or returned, whether he would forbear appearing against the prisoner; but he would not say by whose authority that person came.

This was the whole of the case, and the counsel for the prisoner contended that they had not made out the charge of the felony, the evidence, if true, amounting only to that of obtaining goods under false pretences; for they had even admitted they gave credit to Mrs. Coningham for the muslin and calico; and as for the shirt, it appeared he had been trusted with that, and it remained for the jury to be convinced whether he had an intention of not returning it at the time he was so trusted, before they could convict him.

Mr. Justice Buller, who tried the cause, admitted the counsel was perfectly right as to the calico and muslin, for it had been repeatedly so decided in various cases by the whole of the judges; but he did not agree with him in respect to the shirt, and, therefore, should leave it to the jury.

The major being called upon for his defence, begged permission to read a few words he had put to paper, fearful that his embarrassed situation might otherwise prevent him from saying what he wished. This paper stated, that he did not mean to deny he had unfortunately been in that place before; but some of the public prints had so misrepresented facts, that he had reason to fear the minds of the jury might be so far prejudiced against him as to suppose he had spent his whole life in making depredations. To prove that it was not true, he begged to show how his latter time had been passed. On going abroad, he found the French engaged in a war, fighting, as he thought, for freedom; he entered their service, and was soon honoured with rank in their army. This, however, at much hazard, he quitted, on their declaring war against this country, and went over to the Austrians, with whom he for some time served as a volunteer. The commander, noticing his exertions, gave him a commission of no small rank, in which he continued until he was recognised by some British officers, and it was instantly circulated through the army, that he was the convicted Semple (he having taken upon himself the name of Lisle). On this he was obliged to quit that service; but still willing and desirous to serve, he went towards the Rhine, and obtained a commission under the hereditary prince. He had not, however, been long

here, when a British officer sent to the commandant, that he had been condemned to transportation, but without stating the time had expired. Being thus suspected of being a runaway felon, he was taken into custody by the police, and confined in a prison for more than five weeks, without even the permission of pen and ink. The fact being cleared up, he was set at liberty, but not without losing his situation; he again, however, went into the field, and was twice wounded. This induced him to return home, and he sent a letter to Mr. Dundas, a copy of which he desired might be read; but the court thinking it irrelevant, it was not admitted. He then concluded, that he had been thus persecuted, because he was major Semple, and which had also brought him to that bar on that day upon a charge of which he was totally innocent.

The jury, after near half an hour's consideration, brought in a verdict, *Guilty of taking the shirt under false pretences.*

This the judge explained was no verdict; on which, in a few minutes, they pronounced him *guilty of stealing the shirt.* Not guilty upon the charge of the muslin and calico.

He was put to the bar on the 21st, and received sentence of transportation. He had long preyed on the public, and was a man of good address, and genteel appearance.

QUEEN EMMA,

TRIAL BY FIRE ORDEAL.

The most remarkable trial *by fire*, recorded in English history, is that of queen Emma. This lady was the daughter of Richard the second, duke of Normandy, married to Ethelred, king of England, and mother of Edward the Confessor. She had a large share in the administration of affairs during her son's reign, and had so considerable an interest, that Goodwin, earl of Kent, and of the West Saxons, who had been chief minister in several reigns, was afraid of being eclipsed by her ascendancy. To get rid of this competition, he charged the queen-mother with several crimes, and getting some of the principal nobility to second his information, the king, who was a weak and over-credulous man, made her a visit, and seized her money and estate, under pretence that she had enriched herself by avarice and injustice. The distressed queen retired to Alwyne, bishop of Winchester, her near relation; but this afforded her enemies an opportunity of heaping new calumnies upon her. Earl Goodwin, particularly, gave out, that these visits were made to facilitate an improper connexion.

The king, who was a saint because he was an idiot, on these reports, obliged his mother to purge herself by undergoing the trial of fire ordeal. Robert Gemeticensis, archbishop of Canterbury, took upon him to impeach her, and bishop Alwyne, of Winchester, upon three articles:—

1. That the queen consented to the death of her son Alfred.

2. That she used her endeavour to prevent her son, the then king, from obtaining the crown.

3. That she maintained a scandalous intercourse with Alwyne, bishop of Winchester.

For her trial upon these articles, the archbishop, in conformity to the king's direction, convened a synod to investigate the matter, particularly the last article.

The queen was not heard, or in any way interrogated by the assembly concerning any of these charges; but the resolution of the synod, as reported by

the archbishop was, that Emma, the queen-mother, was sentenced to go on her bare feet over nine ploughshares heated red hot, in the presence of the clergy and the people, in the cathedral church of Winchester, and if she received no harm in this trial, she was to be reputed innocent: but if otherwise, she was to undergo the punishment of death.

The unhappy queen spent the night before the ordeal in prayer at St. Swithin's tomb, in the church, and next day, after the preparatory ceremonies, she walked over the nine hot plough-shares unhurt, in the presence of the king, the nobility, and clergy. She was dressed like an ordinary person, naked to the knees, and was compelled to turn her eyes upwards. The fire, say the assumed philosphers or chroniclers, was so far from making any impression upon her, that after she had walked out of the church, and had even trod upon all the irons, she asked when they intended to bring her to the test?

Upon this, king Edward, her priest-ridden son, fell upon his knees, asked pardon, and was willing to make reparation to his injured mother and the bishop of Winchester, by submitting to discipline. To preserve the memory of the miracle, the ploughshares were buried in the cloister of Winchester, and one-and-twenty manors settled upon the bishopric and church of Winchester, three of which were given by the king, nine by queen Emma, and as many by the bishop himself. What a prize for the vile impostors of priests!

In the ordeal, one pound of iron was enough for a single probation, and three served for a triple one; and none were to be present but such as were fasting. The Litanies being said, the priest began his abjuration thus:—

O God, who hast done many wonders by fire, who hast delivered thy servant Abraham from being burnt by the treacherous contrivances of the Chaldeans; who hast suffered the bush to burn in the sight of Moses and not to be consumed; who hast delivered the three children from the fiery furnace of the Chaldeans, by which many of them perished; who having destroyed Sodom and Gomorrah by fire, hast saved Lot thy servant and his family; who at the coming of thy Holy Spirit hast decreed to separate the faithful from unbelievers by the illustration of fire; show us in this trial of our wickedness, the power of the same Holy Spirit, by the heat of this fire distinguish the faithful from the unbelievers; that the guilty upon a slight touch of the same, upon account of the crimes about which inquisition is made, may have horror upon them, and their hands or feet in some measure burn; but that those who are innocent may utterly escape and come off unhurt, through, &c.

When this was done, holy water was given to all present to taste, and and sprinkled over the house; then the iron was produced, which was taken in the presence of all by the supposed criminal, and carried for the space of nine feet. His hand was then sealed up, kept so for three nights, and then opened; and if it proved sound and well, thanks were returned to God for it; but if raw and corrupt matter was found where the iron had touched, he was adjudged guilty.

In the trial by scalding water, the accused took a stone out of it, which was hung into it by a string a hand's breadth, the hand being sealed up and opened as before.

At the divorce of Lothaire king of France, and his queen Tetherga, by whom he was afterwards poisoned, that lady underwent the trial of scalding water, by proxy, and coming off without the least mark or impression, was received by Lothaire her husband, and again cohabited with him.

The communion was also given to those who are to be put into the water.

Mass being over, the priest made holy water, and proceeded to the place where the accused were to be tried. He then gave them some of the water to drink, and afterwards abjured the water to which he sent the accused.

After the water had been thus exorcised, the accused put off their clothes,

kissed the gospel and the cross, and holy water was sprinkled over them. All present were required to be fasting: the accused were then thrown into the water; and if they sunk, they were reputed innocent, but if they swam on the surface they were adjudged guilty. This vile custom prevailed among the English, Germans, and most other nations of Europe.

JOHN HORNE TOOKE,

FOR HIGH-TREASON.

On the 17th of November, 1794, came on the trial of Mr. John Horne Tooke. When at the bar, Mr. Tooke said it was necessary for the purposes of his defence that he should quit the situation in which he stood, and be near the counsel which the court had assigned to him for his defence.

The chief-justice said, that it was an indulgence he hardly ever knew given to any person in his situation.

Mr. Tooke knew it was an unusual application; but it was impossible for his counsel to know several particular facts, if he had not the opportunity of instructing them every moment; he therefore looked upon it as his right, and no indulgence. If they allowed him to stand by his counsel, he might have some chance of making his defence; but, if they kept him at the bar for nine hours, as was the case of the person who stood there last, there would be no occasion for any verdict, for that of itself would be as effectual as any sentence of death that could be pronounced against him. It should be recollected, also, that he came out of a place of close custody, part of which had been attended with degrading and humiliating circumstances, and some of them inhuman ones, where he had wasted his health during a sultry season; many returns of the year he could not expect in the course of nature, if he were discharged now; but if ordered to remain where he now stood, he could not expect to survive the present trial. He might, perhaps, be able to afford his counsel such means for making his defence as would materially shorten the trial, if the court granted the means, by granting what he now asked.

The chief-justice observed, that the prisoner had what the law regarded as necessary means to enable him to make his defence. He had had counsel assigned him; they had had, or might have had, access to him at all seasonable hours; that was what the law allowed him. He had taught the court not to use the word indulgence, and he had taught them, too, that in their duty they were not to give him any indulgence; now his lordship said, that he was apprehensive that to grant this application would be an extraordinary indulgence, because it was a thing that was not done to any other prisoner, who had the same stake that he had, or any other person who came to that bar, and therefore, on that score, the court would not be permitted to comply with this request; they could not, in that view, do it without being guilty of injustice to others; it was evident, therefore, that the court could not grant what the prisoner asked, on the ground on which he asked it; but he had stated another reason, which, although he grounded no motion on it, yet was in itself extremely material, and would warrant the court in doing that which the prisoner thought they ought not to do, namely, to grant him an indulgence; he had stated the condition of his health to be such, that he must suffer much if he was ordered to remain where he stood; the court would not put his life in any danger on account of the place on which he stood, nor his defence to any difficulty that could be avoided by the court; they wished him to make his defence in the best manner imaginable; if this was likely to disentangle the prisoner out of any difficulty which he felt, his lordship said, he

would put it to the judges, whether the prisoner might not be INDULGED, as he asked.

Mr. Tooke said, that on the footing of indulgence, he thought he had explained himself already; but if the court should refuse it under the title which the chief-justice was pleased to give it, they would hear his argument on the point of law in this case.

The chief-justice said, that the prisoner should state the whole of what he had to say on this subject now, and before the court deliberated; if he wished to argue any point of law, the court would hear him.

Mr. Tooke said, that if he understood there was any objection on the part of the bench to what he asked, he should be ready to argue the point, and should desire to argue it; it was a point on which the principle of the law was clear; he begged leave to say, that although in his own mind he excluded the idea of any indulgence, and applied the part of the score of health, yet he was confident that upon either he had a right to argue in favour of the application which he now made; but understanding, from appearance, that the court was willing to grant the object of it, he did not think it necessary to cavil on a word: he had in substance what he asked; he should therefore say no more upon this matter, only begging it to be understood that he did not mean to change his ground.

The judges having consulted for half a minute, the chief-justice informed the prisoner, that the judges present felt themselves extremely disposed to indulge the prisoner on the score of health. Mr. Tooke thanked his lordship for that, *on account of his health*, and accordingly took his place near his counsel. Much debate took place respecting the jury. When complete, Mr. Perceval opened the pleadings. The solicitor-general then made his remarks on the crime of high-treason.

He would, he said, attribute to the prisoner having engaged in a conspiracy to effect a change in the sovereign power, the king, lords, and commons in parliament assembled. He would attribute to him, for the purpose of accomplishing the conspiracy, that he not only quarrelled with the administration and the frame of government, but the principles of the constitution; and his objections were radical and entire. He would show in the course of evidence, that the prisoner conceived no government good, but such as in principle was founded on the "Rights of Man;" and that it was the duty of every man to destroy that government, which differed from one so formed. To show the opinion of the prisoner, and others of the government, he read extracts from a book written by Mr. Joel Barlow. He then adverted to the various societies throughout England; particularly the Constitutional and London Corresponding Societies.

The remainder of the solicitor-general's speech was a history of the minutes of the proceedings of these two societies down to May last, upon the seizure of their papers, together with Mr. Hardy, secretary to the Corresponding Society, and Adams (since become an evidence), secretary to the Constitutional Society.

The solicitor-general afterwards entered into a minute detail of the two societies down to the seizure of the state prisoners. He also detailed the leading features of the proceedings of the British convention, in the midst of which he was interrupted by

Mr. Horne Tooke, who, apologizing to the court, declared, he wished but to save their time and his own, for which he was anxious not to misunderstand the learned counsel. He understood him to say, that all these facts he meant to bring home to him (the prisoner) personally; for if he did not, his observations would go for nothing.

The court agreed in this sentiment

The solicitor-general observed, he meant to prove the prisoner was in the chair when certain resolutions were adopted. He then proceeded in his de-

tail and comments on the proceedings of the two societies down to May last.

Thomas Maclane proved the seizure of the books and papers of Adams, on the 12th of May, and said the book shown was one. Mr. W. Woodfall believed the part shown to be the handwriting of Mr. Tooke.

Daniel Adams, secretary to the Constitutional Society, was called to prove the books, &c. He said he had been secretary for ten years past. The entries were regularly made in a book; names were frequently in the book, though the persons were not present, because their names were entered at the time they came into the room, although, perhaps, they did not stay. They frequently dined together, and many members left the place after dinner; by that means their names were entered, though not actually present. He entered the proceedings from minutes handed by different people. It sometimes happened, that when a person was in the chair, after he had left it, that another was placed in it, without its being noticed in the minutes.

He was cross-examined and re-cross-examined by Mr. Tooke.

John Thompson was called to prove, that he found in the prisoner's possession the resolutions from the Manchester Constitutional Society, with letters from Mr. Cooper, respecting the proposed abridgment of the "Rights of Man," all addressed to Mr. Tooke.

On Mr. Tooke remonstrating against this kind of evidence, the court said, that a great number of papers might be found in possession of a man in the shape of letters directed to him; but that, unless they led to answers given by the person to whom they were so directed, they would not operate against him.

Mr. Tooke said, he never answered any letters; and if what was directed to him was to appear in evidence against him, there might be found among his papers a letter from a man deranged in his senses, which would subject him to a prosecution for blasphemy, as it ran thus, "Verily, verily, I say unto you, that I am God the Father, God the Son, and God the Holy Ghost."

The chief-justice told the prisoner, if he would argue against the strength of all the other evidence, as he did against this, he had nothing to fear from the present trial.

A variety of papers were read, which were produced in court on the trial of Mr. Hardy; also several others; particularly a circular letter in the handwriting of Mr. Tooke, and signed by him, "To all the members of the Constitutional Society."

Several who were witnesses for the crown on Mr. Hardy's trial, were likewise evidence for the same on the present occasion.

A Mr. Hull, a member of the Constitutional Society, was called on the part of the crown, but he did not remember a single circumstance that was asked; of course, he was quickly dismissed.

After one or two more papers were put in by the counsel for the crown, the solicitor-general acquainted the court that the evidence in support of the prosecution was closed.

Mr. Erskine commenced by a brief capitulation of the occurrences on Hardy's trial; when he had contended against the united efforts of the most eminent gentlemen at the bar, who had been retained on the part of the crown. He rejoiced in the success which had marked his exertions in that trial, because he had been instrumental in the acquittal of an obscure and innocent individual. The emotions which he then felt were no less sincere than impressive; but if there was a deficiency of talent on his part, it was his lot to have been very ably supported by his learned and ingenious friend, Mr. Gibbs.

In explanation of the law of treason, Mr. Erskine referred to the same authorities of Hale and Forster, as he did on the trial of Mr. Hardy. He then endeavoured to explain the difference of opinion between him and the attorney-general, on the construction of the law. The attorney-general confessed

that to constitute the crime of high-treason, it was necessary that the guilt should exist in the mind; and the evidence he adduced was meant to prove this intent by the overt acts, disclaiming any recourse to constructive accumulation, or any other kind of treason.

The charge against the prisoner was, by overt acts, attempting to overthrow the king's government by force, and thus conspiring his death. But before they could convict him of such offence, they must be satisfied that force was to have been employed. Upon this point he cited the authority of Hale, that when a man conspires the death of the king, or his imprisonment, to gather company, or send letters in execution thereof, is an overt act of high-treason; but the overt act itself was not high-treason. It could go no farther than to prove the treasonable intention.

In the present case, the attorney-general had done all that he was entitled to do, and could prove no more than what was already before the jury; yet there was not the slightest evidence of any design being formed against the king's person, however the proceedings might be thought to operate against the government; and upon that ground he must insist that the proof most completely failed. The convention at Edinburgh, which was the great groundwork of the charge, was evidently assembled for the purpose of deliberating on the means of reforming the abuses in government, and the representation of the people in parliament, without the least intention of accomplishing the object by force.

He was happy, on this occasion, to have that authority, which of all others was most desirable; namely, that of the lord chief-justice Eyre himself, in his charge to the grand jury, to show that, whether the proceedings of the societies or the convention led to the death of his majesty or not, was not a matter of inference, but a matter of fact, upon which the jury was to decide. Nothing in the proceedings or publications of either breathed any such tendency; and the same learned judge had told them that no man was justifiable in applying to the language of another any other meaning than that which he professed.

By the statute of 25 Edward III. it was expressly provided, that no matter of implication should go to a jury on a charge of this nature, but that the prisoner must be provably attainted. He would then ask what were the proofs brought in support of this prosecution? Lord Hale said, that such charges should not be made out by inference or stretches of wit; neither would he attempt to defend his client by wit, if he possessed any. Before so grave a bench and on so solemn an occasion, all appearance of levity would be indecorous, otherwise there was no part of this evidence which was not open to the broadest ridicule. What was become of the humane character of the British law, if the life of a subject was to depend upon evidence too light to pluck a feather from a sparrow's wing, and which would not be admissible in a law-suit respecting £10.

If the jury, after hearing him in the present address, should think it necessary to go into any farther evidence, he would prove to them, that major Cartwright, a gentleman of the first character, talents, and respectability in the kingdom, was its original founder. It had for its object a parliamentary reform, an object, for the attainment of which the society of the Friends of the People was since instituted; an object by which the greatest and best men of the country hoped to prevent unnecessary and ruinous wars; to remedy the abuses in the state; to prevent the increase of taxes, and guard against the profligate expenditure of our money. It was an object which the late earl of Chatham always had at heart, and which formed a leading feature of his character.

The duke of Richmond, whose authority in the country was deservedly high, and who was a man not to be suspected of taking up opinions on light or trivial grounds, had not only expressed himself an advocate for a radical reform in the representation, but published a letter, in which he declared it

to be indispensable, and asserted the inherent rights of the people to enforce it. These opinions, taken up so deliberately, and so generally circulated with such prodigious effect, that nobleman must, no doubt, still entertain, however inopportunely he might think the present moment to be for acting upon them.

He differed much from the noble duke respecting universal suffrage; but there were many who held different sentiments. The noble duke vindicated the right of the people, to enforce the principle of universal suffrage; and the crown lawyers of the day never brought him to account for it. Mr. Tooke was an advocate for parliamentary reform upon a much more moderate plan, and yet his blood was called for, while the duke of Richmond was not thought to have offended.

Mr. Erskine made several very judicious remarks on the infamy of the spy system. He was relieved by Mr. Gibbs. On the fourth day Mr. Tooke began his evidence.

The first witness called was major Cartwright, who was examined by Mr. Erskine.

The major said, he had been a member of the society for Constitutional Information from its first institution. One of the first members was Dr. Jebb, &c., although they had been pleased to consider him as the father of the society. The object of that association was to enlighten the minds of the public, with respect to the nature of their just rights; to obtain a radical reform in the house of commons; and to recover certain rights which they conceived had been lost by the people.

Major Cartwright, after relating what he understood to be the great object of the Constitutional Society, namely, a radical reform in the commons house of parliament, said, the society had never, to his knowledge, departed from that original object. He was a member of the society to that hour, and declared, upon his oath, that they had never changed that object. He had known the prisoner at the bar about sixteen years; and his knowledge of him had been very intimate. Mr. Tooke always appeared to him, from the conversations he had with him, to be a steady, firm, and inflexible friend to the reform of the house of commons. That reform was the plan he then held in his hand (the duke of Richmond's letter).

Mr. Fox was then called, who deposed, that he remembered to have seen Mr. Tooke at a meeting convened at the Thatched House tavern, he believed, in the year 1785, very soon after Mr. Pitt had brought forward his motion for a reform in parliament. Upon being asked whether Mr. Horne Tooke supported a motion proposed in that meeting to give thanks to Mr. Pitt, for his conduct with respect to the question of a parliamentary reform, he said, that his recollection, at this distance of time, went rather to the substance of what had passed at the meetings, than to the mode in which the proceedings were conducted. Mr. Horne Tooke supported the motion approving of the specific plan of reform brought forward by Mr. Pitt, which some other gentlemen, who were present as well as himself, considered improper.

Mr. Francis and the duke of Richmond were next examined.

Mr. Tooke observed, that the indictment charged him with an intent to depose the king by force of arms, with divers pamphlets, books, papers, &c.

He was therefore of opinion, that any book which he had written and acknowledged, was as clear an indication of his mind as any papers produced by others, that got them from some who received them from others. The book he wished to bring forward was one which he wrote in answer to the duke of Richmond's letter, printed by Debrett.

Mr. Debrett was called, but did not appear; the attorney-general suggested that the book could not be given in evidence.

Mr. Erskine contended that the prisoner's was a clear proposition, which the court could not resist without departing from its character for justice and consistency. It was evidence which, he persisted, could not be shut out. It

was certainly fair to produce his pamphlet, to rebut what had been said of his being an advocate for the plan urged with so much zeal and ability by the duke of Richmond. The chief-justice agreed on the point, that he, who undertakes to make out a proposition for a man, which he does not acknowledge, must make it out clearly. If treason is said to be in his mind, it is considered as an overt act of the manifestation of treason, and of course he has a right to rebut such evidence.

The right hon. William Pitt was next examined by Mr. Tooke.

A letter being put into his hand, Mr. Tooke asked him, if that letter was his handwriting? After looking at it, he answered, that it was.

Lord chief-justice Eyre asked, what the letter was? Mr. Erskine replied, that it related to the importance of the parliamentary reform.

The judge asked, what connexion that letter had with this case? Mr. Tooke said, that letter had the same connexion with this case, that the duke of Richmond's letter had with the case of Hardy.

His lordship observed, that the duke of Richmond's letter applied to the case of Hardy, because Hardy professed to follow the duke of Richmond's plan of reform, opened by Mr. Pitt in the house of commons, and on which a meeting, according to Mr. Fox's evidence, was called at the Thatched House tavern; it would have been very proper evidence, had Mr. Tooke attended that meeting, and approved of that plan. If Mr. Tooke could show that he ever acted on that paper, he might produce it.

Mr. Tooke said, he had never followed any other plan of parliamentary reform, than that proposed by the right honourable gentleman; namely, that which was necessary to the independence of parliament, and the liberties of the people.

Mr. Pitt being asked, by his lordship, to what description of persons his letter was addressed? he answered, that he could only judge from the contents of the letter, to what description of persons it was directed; and he thought he must have sent it to some person who acted as a chairman to a Westminster committee. He recollected nothing more about that letter. He said, he recollected a meeting at the Thatched House tavern, relative to a motion for a parliamentary reform, which he had made in the house of commons, in May, 1782. He could not recollect, with certainty, who were present; but he believed that Mr. Tooke was present.

Mr. Tooke asked, whether he (Mr. Pitt) had not recommended to endeavour to obtain the sense of the people throughout England, in order to be a foundation for a future application to parliament? He had no particular recollection of recommending such a measure. So far as he could recollect, it was the general sense of the members to recommend petitions to be presented, in the next session of parliament, with a view to reform.

Mr. Tooke hoped that his lordship would now allow him to read Mr. Pitt's letter.

His lordship replied, that he was as far as ever from entitling him to read that letter.

"Then your lordship, I hope," said Mr. Tooke, "will let me have it again."—The letter was returned.

Mr. Sheridan, the rev. Mr. Wyvill, Mr. Maxfield, and the lord bishop of Gloucester were also witnesses for the defence.

Mr. Tooke's evidence being closed, Mr. Gibbs addressed the jury in a very able speech: the lord chief-justice then proceeded to his charge, recapitulating the several addresses to the different societies, and, after a very able and impartial speech, his lordship proceeded to comment upon the evidence produced in behalf of the prisoner; the result of which, together with his observations on the other parts of the case, and how the whole was borne out by the evidence, it was solely their important province to decide; and he doubted not but, whatever their verdict might be, it would be satisfactory,

according to their consciences; and, being so, would be to the satisfaction of their country.

The jury, after conferring for about ten minutes, returned into court, and gave their verdict,—*Not Guilty*.

The verdict was no sooner announced by the foreman, than it was received with universal acclamation.

JOSEPH THOMPSON HARE,

FOR MAIL-COACH ROBBERY IN VIRGINIA, 1818.

For fourteen years Thompson's life was a connected series of extraordinary and successful robberies, committed in Louisiana, Kentucky, Tennessee, Ohio, Pennsylvania, Virginia, Maryland, Massachusetts, New York, and New Jersey, and in Canada, and the Spanish provinces, to the amount of about one hundred thousand dollars.

The first robbery in which he was concerned was in New Orleans, where he, in company with some others, robbed a sea captain of his watch, worth fifty guineas; the second was also in New Orleans, where they robbed a French officer of a large sum of money. The third and fourth were likewise in New Orleans; one of which consisted of two hundred and fifty dollars, which they took from a countryman, the other of a watch and seventeen dollars; the fifth was in the wilderness, between the Muscle Shoals and Choctaw nation, where Hare and two others robbed a company of four gentlemen of about $28,000 in gold; the sixth was in the Choctaw nation, where they robbed a gentleman from St. Augustine, and one from Charleston, South Carolina, of twelve or thirteen thousand dollars in gold; the seventh was also in the Choctaw nation, when he himself robbed a traveller of $2700 in gold, and a bag of silver, a watch, and a rifle; the eighth was between Pensacola and Baton Rouge, where they robbed a company of five travellers of forty pounds weight of gold and some silver, amounting to upwards of $11,000; the ninth was also between Pensacola and Baton Rouge, where they robbed a gentleman of about $15,000 in gold; the tenth was near Nashville, Tennessee, where they robbed a traveller of $970; the eleventh was in Franklin county, Virginia, where he himself robbed a drover of $450 and his horse, for which he was apprehended and sentenced to eight years confinement in the penitentiary of Virginia, five of which he served, when he was liberated for his good conduct; the twelfth was between New York and Boston, where they robbed two gentlemen of $14,700, mostly in English guineas; and in New York, Hare stole a handsome pair of carriage horses belonging to the governor.

In Washington city he attempted to sell a horse for a man who had stolen it, for which he was thrown into jail, where he lay for several months, when he was released on condition that he would join the army. While in the army he meditated delivering president Madison to admiral Cockburn, whose fleet was then in the Patuxent, which he would have done if he could have communicated his scheme to the admiral; becoming dissatisfied, however, with the army, he hired a horse and gig in Georgetown, deserted, and sold them. The thirteenth was in Chester county, where he entered a tavern-room, and robbed two Germans of one thousand dollars; the fourteenth was near Lancaster, Pennsylvania, where they robbed a drover, of the name of Scott, of eighteen hundred dollars; the fifteenth was at a tavern about three miles from Boston, where he robbed a man of four hundred dollars; the sixteenth was at Princeton, New Jersey, where he robbed a merchant of $30,000, for which he was tried at Summerville court-house, and sentenced to the

state prison for five years, two of which he served, when he was again liberated for his good conduct; the seventeenth and last robbery in which he was concerned, was that of the United States mail, near Havre de Grace, of $19,000, for which he was hung, together with John Alexander, at Baltimore. It was their intention to have robbed both the northern and southern mails, as both mails had to pass the spot on which the robbery was committed, within an hour or two of the same time, but one of the company making away with the ropes to tie the driver and passengers, they permitted the mail to pass unmolested.

He was a man of great strength and courage, and possessed more generosity than is generally met with among robbers. He always acted as principal in the robberies in which he was concerned. The following is the concluding paragraph of his confession, written by himself while in the Baltimore jail:—

"The circumstances of our trial and sentence are already known to the citizens of Baltimore. Since then I have been confined in a dreary dungeon, heavily ironed, without any hopes of mercy here, but looking forward for a crown of everlasting glory in the world to come, through the intercession of my blessed Saviour. My offences have been great and many. For the last fourteen years of my life I have been a highway robber, and have robbed on a larger scale, and been more successful than any other robber in Europe or this country, that I have ever heard of; but I have the consolation of reflecting that I never killed or wounded any man, and that no man's blood is upon my head. I have employed myself in confinement in writing this confession, which, I solemnly declare to the world, *and will repeat under the gallows*, is a *true* and faithful history of my life and adventures, and I hope it may serve as a caution to other persons, how they follow the same course. May the Lord of mercy pardon and receive my soul."

CIRCUMSTANTIAL EVIDENCE.

JONATHAN BRADFORD.

Jonathan Bradford kept an inn in Oxfordshire, on the London road to Oxford, in the year 1736. He bore an unexceptionable character. Mr. Hayes a gentleman of fortune, being on his way to Oxford, on a visit to a relation, put up at Bradford's; he there joined company with two gentlemen, with whom he supped, and in conversation unguardedly mentioned that he had then about him a large sum of money. In due time they retired to their respective chambers; the gentlemen to a two-bedded room, leaving, as is customary with many, a candle burning in the chimney corner. Some hours after they were in bed, one of the gentlemen being awake, thought he heard a deep groan in the adjoining chamber, and this being repeated, he softly awaked his friend. They listened together, and the groans increasing as of one dying, they both instantly arose, and proceeded silently to the door of the next chamber, from whence they heard the groans; and the door being ajar, saw a light in the room; they entered, but it is impossible to paint their consternation, on perceiving a person weltering in his blood in the bed, and a man standing over him, with a dark lanthorn in one hand and a knife in the other. The man seemed as petrified as themselves, but his terror carried with it all the terror of guilt! The gentlemen soon discovered the person was a stranger with whom they had that night supped, and that the man who was standing over him was their host. They seized Bradford directly, disarmed

him of his knife, and charged him with being the murderer: he assumed by this time the air of innocence, positively denied the crime, and asserted that he came there with the same humane intentions as themselves; for that, hearing a noise, which was succeeded by a groaning, he got out of bed, struck a light, armed himself with a knife for his defence, and was but that minute entered the room before them.

These assertions were of little avail; he was kept in close custody till the morning, and then taken before a neighbouring justice of the peace. Bradford still denied the murder, but nevertheless, with such an apparent indication of guilt, that the justice hesitated not to make use of this extraordinary expression, on writing out his mittimus, "Mr. Bradford, either you or myself committed this murder."

This extraordinary affair was the conversation of the whole county. Bradford was tried and condemned over and over again, in every company. In the midst of all this predetermination came on the assizes at Oxford; Bradford was brought to trial, he pleaded not guilty. Nothing could be more strong than the evidence of the two gentlemen; they testified to the finding Mr. Hayes murdered in his bed; Bradford at the side of the body with a light and a knife; that knife, and the hand which held it, bloody; that on their entering the room he betrayed all the signs of a guilty man, and that a few moments preceding, they had heard the groans of the deceased.

Bradford's defence on his trial was the same as before the gentlemen: he had heard a noise; he suspected some villany transacting; he struck a light; he snatched a knife (the only weapon near him) to defend himself; and the terrors he discovered were merely the terrors of humanity, the natural effects of innocence as well as guilt, on beholding such a horrid scene.

This defence, however, could be considered but as weak, contrasted with several powerful circumstances against him. Never was circumstantial evidence more strong. There was little need left of comment from the judge in summing up the evidence. No room appeared for extenuation! And the jury brought in the prisoner guilty, even without going out of the box. Bradford was executed shortly after, still declaring he was not the murderer, nor privy to the murder of Mr. Hayes; but he died disbelieved by all.

Yet were those assertions not untrue! The murder was actually committed by Mr. Hayes's footman; who, immediately on stabbing his master, rifled his breeches of his money, gold watch, and snuff-box, and escaped to his own room; which could have been, from the after circumstances, scarcely two seconds before Bradford's entering the unfortunate gentleman's chamber. The world owes this knowledge to a remorse of conscience in the footman (eighteen months after the execution of Bradford) on a bed of sickness; it was a death-bed repentance, and by that death the law lost its victim.

It is much to be wished, that this account could close here; but it cannot. Bradford, though innocent, and not privy to the murder, was, nevertheless, the murderer in design. He had heard, as well as the footman, what Mr. Hayes had declared at supper, as to his having a large sum of money about him, and he went to the chamber with the same diabolical intentions as the servant. He was struck with amazement!—he could not believe his senses!—and in turning back the bed-clothes, to assure himself of the fact, he, in his agitation, dropped his knife on the bleeding body, by which both his hand and the knife became bloody. These circumstances Bradford acknowledged to the clergyman who attended him after his sentence.

JAMES CROW.

In the year 1727, Thomas Geddely lived as a waiter with Mrs. Hannah Williams, who kept a public-house at York. It being a house of much business, and the mistress very assiduous therein, she was deemed in wealthy circumstances. One morning her scrutoire was found broke open and robbed; and Thomas Geddely disappearing at the same time, there was no doubt left

as to the robber. About a twelvemonth after, a man calling himself James Crow came to York, and worked a few days for a precarious subsistence, in carrying goods as a porter. By this time he had been seen by many, who accosted him as Thomas Geddely. He declared he did not know them; that his name was James Crow, and that he never was at York before. This was held as merely a trick, to save himself from the consequences of the robbery committed in the house of Mrs. Williams, when he lived with her as a waiter.

He was apprehended, his mistress sent for; and, in the midst of many people, instantly singled him out, called him by his name, Thomas Geddely, and charged him with his unfaithfulness and ingratitude in robbing her.

He was directly taken before a justice of the peace; but, on his examination, absolutely affirmed that he was not Thomas Geddely, that he knew no such person, that he never was at York before, and that his name was James Crow. Not, however, giving a good account of himself, but rather admitting himself to be a petty rogue and vagabond, and Mrs. Williams and another swearing positively to his person, he was committed to York Castle for trial, at the next assizes.

On arraignment, he pleaded not guilty; still denying that he was the person he was taken for. But Mrs. Williams and some others swearing that he was the identical Thomas Geddely who lived with her when she was robbed, and who went off immediately on the commitment of the robbery; and a servant girl deposed, she saw the prisoner that very morning in the room where the scrutoire was broke open, with a poker in his hand; and the prisoner being unable to prove an *alibi*, he was found guilty of the robbery. He was soon after executed, but persisted to his latest breath, that he was not Thomas Geddely, but that his name was James Crow; and so it proved: for some time after the true Thomas Geddely, who, on robbing his mistress, had fled from York to Ireland, was taken up in Dublin for a similar offence, and there condemned and executed. Between his conviction and execution, and again at the fatal tree, he confessed himself to be the very Thomas Geddely who had committed the robbery at York, for which the unfortunate James Crow had been executed!

We must add, that a gentleman, an inhabitant of York, happening to be in Dublin at the time of Geddely's trial and execution, and who knew him when he lived with Mrs. Williams, declared, that the resemblance between the two men was so exceedingly great, that it was next to impossible for the nicest eye to have distinguished their persons asunder.

JOHN JENNINGS.

A gentleman, travelling to Hull, was stopped late in the evening, about seven miles short of it, by a single highwayman, with a mask on, who robbed him of a purse containing twenty guineas. The highwayman rode off a different road, full speed, and the gentleman pursued his journey. It, however, growing late, and he being already much affrighted and agitated at what had passed, he rode only two miles farther, and stopped at the Bell Inn, kept by Mr. James Brunell. He went into the kitchen to give directions for his supper, where he related to several persons present his having been robbed; to which he added this peculiar circumstance, that when he travelled he always gave his gold a particular mark; that every guinea in the purse he was robbed of, was so particularly marked; and that, most probably, the robber, by that means, would be detected. Supper being ready, he retired. He had not long finished his supper, before Mr. Brunell came into the parlour. After the usual inquiries of landlords, of hoping the supper and every thing was to his liking, &c. &c. "Sir," says he, "I understand that you have been robbed, not far from hence, this evening."—"I have, sir."—"And that your money was all marked?"—"It was."—"A circumstance has arisen which leads me to think that I can point out the robber."—"Indeed!"—"Pray, sir, what time in the evening was it?"—"It was just setting

in to be dark."—"The time confirms my suspicion!" Mr. Brunell then informed the gentleman that he had a waiter, one John Jennings, who had, of late, been so very full of money at times, and so very extravagant, that he had had many words with him about it, and had determined to part with him on account of his conduct being so very suspicious; that, long before dark that day, he had sent him out to change a guinea for him, and that he had only come back since he (the gentleman) was in the house, saying, he could not get change; and that Jennings being in liquor, he had sent him to bed, resolving to discharge him in the morning. That, at the time he returned him the guinea, he (Mr. Brunell) did not think it was the same which he had given him to get silver for, having perceived a mark upon this, which he was very clear was not upon the other; but that, nevertheless, he should have thought no more of the matter, as Jennings had so frequently gold of his own in his pocket, had he not afterwards heard (for he was not present when the gentleman was in his kitchen relating it) the particulars of the robbery, and that the guineas, which the highwayman had taken were all marked: that, however, a few minutes previously to his having heard this, he had unluckily paid away the guinea which Jennings returned him, to a man who lived some distance off, and was gone; but the circumstance of it struck him so very strongly, that he could not, as an honest man, refrain from giving this information.

Mr. Brunell was thanked for his attention and public spirit. There was the strongest room for suspecting of Jennings; and if, on searching him, any of the marked guineas should be found, as the gentleman could swear to them, there would then remain no doubt. It was now agreed to go softly up to his room: Jennings was fast asleep; his pockets were searched, and from one of them was drawn forth a purse, containing exactly nineteen guineas. Suspicion now became demonstration, for the gentleman declared them to be identically those which he had been robbed of! Assistance was called, Jennings was awaked, dragged out of bed, and charged with the robbery. He denied it firmly, but circumstances were too strong to gain him belief. He was secured that night, and the next day carried before a neighbouring justice of the peace. The gentleman and Mr. Brunell deposed the facts on oath; and Jennings having no proofs, nothing but mere assertions of innocence to oppose them, which could not be credited, he was committed to take his trial at the next assizes.

So strong were the circumstances known to be against him, that several of his friends advised him to plead guilty on his trial, and to throw himself on the mercy of the court. This advice he rejected, and, when arraigned, pleaded not guilty. The prosecutor swore to his being robbed; but that, it being nearly dark, the highwayman in a mask, and himself greatly terrified, he could not swear to the prisoner's person, though he thought him of much the same stature as the man who robbed him. To the purse and guineas, which were produced in court, he swore—as to the purse, positively—and as to the marked guineas, to the best of his belief, and that they were found in the prisoner's pocket.

The prisoner's master, Mr. Brunell, deposed to the fact, as to the sending of the prisoner to change a guinea, and of his having brought him back a marked one in the room of one he had given him unmarked. He also gave evidence as to the finding of the purse, and the nineteen marked guineas in the prisoner's pocket. And, what consummated the proof, the man to whom Mr. Brunell paid the guinea produced the same, and gave testimony to the having taken it that night in payment of the prisoner's master. Mr. Brunell gave evidence of his having received of the prisoner that guinea, which he afterwards paid to this last witness. And the prosecutor, comparing it with the other nineteen found in the pocket of the prisoner, swore to its being, to the best of his belief, one of the twenty guineas of which he was robbed by the highwayman.

The judge, on summing up the evidence, remarked to the jury, on all the concurring circumstances against the prisoner; and the jury, on this strong circumstantial evidence, without going out of court, brought in the prisoner guilty. Jennings was executed some little time after at Hull, repeatedly declaring his innocence to the very moment he was turned off. This happened in the year 1742.

Within a twelvemonth after, lo! Brunell, Jennings's master, was himself taken up for a robbery done on a guest in his own house; and, the fact being proved on his trial, he was convicted, and ordered for execution. The approach of death brought on repentance, and repentance confession. Brunell not only acknowledged the committing of many highway robberies, for some years past, but the very one for which poor Jennings suffered!

The account he gave was, that he arrived at home by a nearer way and swifter riding, some time before the gentleman got in who had been robbed. That he found a man at home waiting, to whom he owed a little bill, and that not having quite enough loose money in his pocket, he took out of the purse one guinea, from the twenty he had just got possession of, to make up the sum; which he paid, and the man went his way. Presently came in the robbed gentleman, who, whilst Brunell was gone into the stables, and not knowing of his arrival, told his tale, as before related, in the kitchen. The gentleman had scarcely left the kitchen before Brunell entered it; and being there informed amongst other circumstances of the marked guineas, he was thunder-struck! Having paid one of them away, and not daring to apply for it again, as the affair of the robbery and marked guineas would soon become publicly known—detection, disgrace, and ruin appeared inevitable. Turning in his mind every way to escape, the thought of accusing and sacrificing poor Jennings at last struck him. The rest the reader knows.

THOMAS HARRIS.

Thomas Harris kept the Rising Sun, a public house, about eighteen miles from York, on the road to Newcastle. Harris had a man and maid-servant: the man, whose name was Morgan, he kept in the threefold capacity of waiter, hostler, and gardener. James Gray, a blacksmith, travelling on foot to Edinburgh, stopped at Harris's, supped, and lay there. Early in the morning, Morgan went secretly to a neighbouring magistrate, and gave information that his master, Harris, had just then murdered the traveller, James Gray, in his bed. A warrant was issued, and Harris was apprehended. Harris positively denied the charge, and Morgan as positively affirmed it; deposing, that he saw Harris on the stranger's bed, strangling him, but that he came too late to save him; and that Harris's plea was, the deceased was in a fit, and he was only assisting him. Morgan further deposed, that he instantly retired, and made a feint as if going down-stairs, but creeping up very softly to an adjoining room, he there, through a key-hole, saw his master rifling the breeches of the deceased.

Harris peremptorily denied every part of this story from the beginning to the end; and the body having, by order of the magistrate, been inspected, and no mark of violence appearing thereon, Harris was nearly on the point of being discharged, when the maid-servant desired also to be sworn. She deposed, that almost directly after her master came down in the morning, as she must conceive, from the traveller's room, she saw him go into the garden (being unknown to her master, in a back wash-house which overlooked it), saw him take some gold out of his pocket, wrap it up in something, and bury it at the foot of a tree, in a private corner of the place.

Harris turned pale at the information! He would give no direct answer as to the circumstance of the money! A constable was despatched with the girl, and the cash, to the amount of upwards of thirty pounds, was found! The accused acknowledged the hiding of that money, but he acknowledged it with so many hesitations, and answered every question with such an un-

willingness, such an apparent unopenness, that all doubts of his guilt were now done away, and the magistrate committed him for trial.

Harris was brought to the bar at York summer assizes, which happened about a week after his commitment, in 1642. Morgan deposed the same as when before the justice. The maid-servant and the constable deposed to the *circumstance* of the money; the first, as to the prisoner's hiding, and both as to the finding of it. And the magistrate gave testimony to the confusion and hesitation of Harris on the discovery of, and being questioned about, the hiding of the money.

Harris, on his defence, endeavoured to invalidate the charge by assertions, that the whole of Morgan's evidence was false; that the money which he buried was his own property, honestly come by, and buried there for his better security; and that his behaviour before the magistrate on this particular, arose from the shame of acknowledging his natural covetousness—not from any consciousness of guilt. The judge then summed up the evidence, remarking strongly on the *circumstance* of the hiding of the money, and the weakness of the prisoner's reasons for his so hiding of it; and the jury, just consulting together for *two minutes*, brought in their verdict—*Guilty*.

Harris was executed pursuant to his sentence, persevering in his declarations of innocence, but desiring all persons to guard against the effects of an avaricious disposition: for it was that sordidness of temper which had led him, he said, into general distrustfulness, and that into the expedient of hiding his money; which *circumstance* had alone furnished the means to his enemies (for what reason they were so, he said, he knew not, but whom he forgave) for bringing him to an ignominious death.

The truth of the fact at last came out: Harris was indeed entirely innocent! Morgan and the maid were not only fellow-servants, but sweethearts. Harris's suspecting covetous temper was well known to both, and the girl once, by accident, perceiving her master burying something, discovered the circumstance to Morgan; he, acting as gardener, took an opportunity when at work to dig for it: it proved to be five guineas; he left it, and informed the girl of it. They settled it not to touch the money, but to keep watching their master, as they had no doubt but he would add to it; and, when it arose to a good sum, they agreed to plunder the hiding place together, marry, and with the spoil set up in some way of business. As they imagined, so it happened; they got several occasions to see the stock increasing, but (equally covetous with their master) the golden harvest was not yet ripe.

One day in a quarrel, Harris strikes his man Morgan several times. Morgan determines on revenge: at this fatal period arrives James Gray. Morgan finds him next morning dead in his bed. The diabolical thought strikes Morgan of first charging Harris with the murdering and robbing of Gray, and then of plundering his master's hiding place, whilst he (the master) shall be in prison. Morgan communicates this intention to the maid: she approves of it; they consult and fix on the plan, and Morgan gives the information to the magistrate, as before related. The girl, unexpectedly, finds the accusation not sufficiently supported, and fears that her sweetheart, of whom she is fond, will be punished for perjury, if her master is released; who indeed, unfortunately, had just hinted as much before the justice. The expedient, in a moment, strikes her to sacrifice the hidden money, and with it her master, to the safety of her paramour; and the idea, as the reader already knows, fatally succeeds.

The whole of this stupendous piece of wickedness came to light in the beginning of the year 1643, on a quarrel between Morgan and the girl, who, after the death of Harris, had lived together as man and wife. They were taken up in consequence, and committed to prison, but escaped the public punishment due to their crime, by both of them dying of a jail disease.

Harris's innocence became afterwards further illustrated, by its being found

out that James Gray, the supposed murdered person, had had two attacks of an apoplexy some months previous to his death, and that he was never master of five pounds at one time in his life.

WILLIAM SHAW.

William Shaw was an upholsterer, at Edinburgh, in the year 1721. He had a daughter, Catherine Shaw, who lived with him. She encouraged the addresses of John Lawson, a jeweller, to whom William Shaw declared the most insuperable objections, alleging him to be a profligate young man, addicted to every kind of dissipation. He was forbidden the house; but the daughter continuing to see him clandestinely, the father, on the discovery, kept her strictly confined.

William Shaw had, for some time, pressed his daughter to receive the addresses of a son of Alexander Robertson, a friend and neighbour; and one evening, being very urgent with her thereon, she peremptorily refused, declaring she preferred death to being young Robertson's wife. The father grew enraged, and the daughter more positive; so that the most passionate expressions arose on both sides, and the words, "*barbarity*, *cruelty*, and *death*," were frequently pronounced by the daughter! At length he left her, locking the door after him.

The greatest part of the buildings at Edinburgh are formed on the plan of the chambers in our inns of court; so that many families inhabit rooms on the same floor, having all one common staircase. William Shaw dwelt in one of these, and a single partition only divided his apartment from that of James Morrison, a watch-case maker. This man had indistinctly overheard the conversation and quarrel between Catherine Shaw and her father, but was particularly struck with the repetition of the above words, she having pronounced them loudly and emphatically! For some little time after the father was gone out, all was silent, but presently Morrison heard several groans from the daughter. Alarmed! he ran to some of his neighbours under the same roof. These, entering Morrison's room, and listening attentively, not only heard the groans, but distinctly heard Catherine Shaw, two or three times, faintly exclaim—"Cruel father, thou art the cause of my *death!*" Struck with this, they flew to the door of Shaw's apartment; they knocked—no answer was given. The knocking was still repeated—still no answer. Suspicions had before arisen against the father; they were now confirmed: a constable was procured, an entrance forced; Catherine was found weltering in her blood, and the fatal knife by her side! She was alive, but speechless; but, on questioning her as to owing her death to her father, was just able to make a motion with her head, apparently in the affirmative, and expired.

Just at the critical moment, William Shaw returns and enters the room. All eyes are on him! He sees his neighbours and a constable in his apartment, and seems much disordered thereat; but at the sight of his daughter he turns pale, trembles, and is ready to sink. The first surprise, and the succeeding horror, leave little doubt of his guilt in the breasts of the beholders; and even that little is done away on the constable discovering that the shirt of William Shaw is bloody.

He was instantly hurried before a magistrate, and, upon the depositions of all the parties, committed to prison on suspicion. He was shortly after brought to trial, when, in his defence, he acknowledged the having confined his daughter to prevent her intercourse with Lawson; that he had frequently insisted on her marrying of Robertson; and that he had quarrelled with her on the subject the evening she was found murdered, as the witness Morrison had deposed: but he averred, that he left his daughter unarmed and untouched; and that the blood found upon his shirt was there in consequence of his having bled himself some days before, and the bandage becoming untied. These assertions did not weigh a feather with the jury, when opposed to the strong circumstantial evidence of the daughter's expressions, of "bar-

barity, cruelty, death," and of "cruel father, thou art the cause of my death," together with that apparently affirmative motion with her head, and of the blood so seemingly providentially discovered on the father's shirt. On these several concurring circumstances, was William Shaw found guilty, was executed, and was hanged in chains, at Leith Walk, in November, 1721.

Was there a person in Edinburgh who believed the father guiltless? No, not one! notwithstanding his latest words at the gallows were, "I am innocent of my daughter's murder." But in August, 1722, as a man, who had become the possessor of the late William Shaw's apartments, was rummaging by chance in the chamber where Catherine Shaw died, he accidentally perceived a paper fallen into a cavity on one side of the chimney. It was folded as a letter, which, on opening, contained the following:—"Barbarous father, your cruelty in having put it out of my power ever to join my fate to that of the only man I could love, and tyrannically insisting upon my marrying one whom I always hated, has made me form a resolution to put an end to an existence which is become a burthen to me. I doubt not I shall find mercy in another world; for sure no benevolent being can require that I should any longer live in torment to myself in this! My death I lay to your charge: when you read this, consider yourself as the inhuman wretch that plunged the murderous knife into the bosom of the unhappy—Catherine Shaw."

This letter being shown, the handwriting was recognised and avowed to be Catherine Shaw's, by many of her relations and friends. It became the public talk; and the magistracy of Edinburgh, on a scrutiny, being convinced of its authenticity, they ordered the body of William Shaw to be taken from the gibbet, and given to his family for interment; and, as the only reparation to his memory and the honour of his surviving relations, they caused a pair of colours to be waved over his grave, in token of his innocence.

RICHARD CARLILE,

FOR A LIBEL,—OCTOBER 15, 1819.

This was an action brought by the attorney-general against the defendant, for the republication of Thomas Paine's Age of Reason, formerly adjudged to be a blasphemous libel. The cause excited general interest, and at an early hour the court was crowded to excess.

Mr. Carlile conducted his own defence without the assistance of counsel. Before the cause commenced, he objected to the competency of the tribunal, not being aware, he said, of any law on which the present prosecution could be maintained.

The attorney-general, in opening the cause, replied to the assertion of the defendant that the present information was founded on no law. Christianity, he said, was a part of the law of the land, and to deny or revile it was punishable both by the common law and by several express statutes; and cited several cases in support of this declaration.

Mr. Carlile, in his defence, stated truth to be his only object in the publication; and expressed his conviction that such publication was essential to the interest and welfare of the country. His fellow-citizens, he said, were now fully prepared to discuss the subject; indeed, it was only by perusing such works as these that the minds of the public could be perfectly enlightened. The sentiments of his own breast, he should state, were in unison with those of Paine, and his religion consisted in the avowal of them. He then entered into a defence of these sentiments, which he affirmed to be free from any immoral tendency; and he proceeded to read aloud nearly the whole work, accompanying it with comments.

After eleven hours, the lord chief-justice, at the request of the defendant, adjourned the court to the following day.

The defendant, on resuming his defence, undertook to prove, by reading passages from the Scriptures themselves, that the charges brought against them by Paine were founded in truth; but he was interrupted by the chief-justice, who informed him that it was not competent to the court to try the merits of the Christian religion, and that such a line of defence was utterly inadmissible. He was, however, permitted to read a variety of extracts from various controversial works, for the purpose, either of supporting the opinions of Paine, or of showing that similar opinions, expressed by others, had escaped prosecution. He likewise endeavoured to show that a recent act for the relief of the Unitarians, ought to protect this work from legal cognizance.

The court again adjourned to enable him to conclude his defence.

On the third day of the trial, Mr. Carlile read a number of passages from various works, in favour of the unlimited toleration of religious discussion. He desired to be permitted to call the archbishop of Canterbury, the high-priest of the Jews, and the leaders of various sects of Christians, to show the discrepancies of their religious belief.

The chief-justice informed him, that such testimony would be at once inadmissible and unavailing; and in consequence, some witnesses to the general character of the defendant were alone summoned.

After a reply from the attorney-general, the chief-justice summed up. The jury returned a verdict of *Guilty*.

On October 15, Mr. Carlile was tried for publishing Palmer's Principles of Nature. Mr. Marryat, for the prosecution, stated, that this was an indictment against the defendant for having published a certain scandalous, impious, blasphemous, and profane libel, of and concerning the Holy Scriptures and the Christian religion, to which the defendant had pleaded *not guilty*.

Mr. Gurney, on the same side, said, that this was a prosecution instituted by the Society for the Suppression of Vice.

The defendant has been pleased to enter his protest against the competency of the court to try the question. If such protests as these were to be tolerated, he knew not what offenders might not, in future, unblushingly defy the authority of the courts of his country to take cognizance of any offence imputed to him. He supposed that they would be asked to-day, as they had been before, by what law the defendant was to be tried. The answer was, that he was to be tried by the ancient, the well-known, the universally recognised common-law of England.

The book which was imputed as a libel to the defendant, was entitled "Principles of Nature; or, a Developement of the Moral Causes of Happiness among the Human Species." It professed to be by Elihu Palmer, and the imprint stated, that it was printed in America, but reprinted and published in London, by R. Carlile, 55, Fleet-street. It was enough that he found the defendant openly publishing it with his own hand; and as it would be his business to show to them, publishing it with no other purpose than that charged in the indictment; the profane and wicked purpose of reviling the Christian religion and Holy Scriptures.

A witness was then brought, who proved the purchasing of the work of the defendant in person.

Mr. Carlile afterwards spoke, at some length, in his own defence. "The learned gentleman," he said, "has stated that this was a prosecution instituted by the Society for the Suppression of Vice. Until last night, gentlemen, I never knew who my prosecutors were; nor do I believe I should then have become acquainted with their name, but for the verdict of yesterday. He has told you that the gentlemen of this society have conferred many benefits on the country; and, in some instances, I admit it; but they have carried their inquisitorial conduct too far. In the preventing the sale of obscene books and prints, I think the society has acted laudably, as these are demo-

ralizing to all persons, of all ages, and of both sexes. But are they justified in going so far as to become censors of the press, and to judge of books on matters of opinion? Gentlemen, I am no hypocrite; I avow myself a Deist, believing in one God, independent of books, or the opinion of others. This, it must be admitted, is, in the abstract, a matter of opinion only. If, gentlemen, your religious opinions are different from mine, you will doubtless disapprove and condemn them. By the laws of the country, a foreigner is entitled to have one-half of the jury his countrymen, or at least of foreigners; but it is not so with me; I am to be tried by a jury of opinions opposite to my own, and I am not allowed to justify mine. How far it is necessary that books should be shielded from examination by law, or that courts of justice should take cognizance of such an examination, and not allow the defendant to state his reasons, I will not pretend to determine. The learned gentleman has attempted to screen the attorney-general from the charge I made against him of wishing to excite prejudices against me; but he has failed. He has also stated, that the book I am charged with publishing, was purchased at the office of *the Republican and Deist*. Now, gentlemen, this is a falsehood, as my shop bore no such designation until long after this indictment was laid against me. He calls me an offender; this, at least, was not decent in your presence; for although the indictment charges me with an offence, yet I ought not to be branded as an offender until I have entered into that defence of my conduct, which I am, this day, determined to do; and no other judge but yourselves, gentlemen, shall interrupt me; and if I am told by you that I shall not make such defence, then will the verdict you may give against me be irregular and impure. But the learned gentleman has gone further, and compared the publication of a book as equal in offence to that of murder, theft, or pocket picking. Is there the slightest analogy? A book is submitted to the public, to be purchased by them or not, at their option; and if they read it, they may approve or discard it. They are not deprived of any thing by the act, except the price of the book, and this, on their part, was voluntary."

After pleading, that the act by which impugners of the Trinity were relieved from responsibility, ought to protect him also, the defendant proceeded to read and comment upon the work in question. Having listened for some time, the jury expressed, through their foreman, their unanimous opinion, that Mr. Carlile was pursuing a very improper mode of defence, and after consulting about two minutes, returned a verdict of *Guilty*.

On November 16, the attorney-general prayed for the judgment of the court on Richard Carlile, when an affidavit was put in, stating the number of copies of Paine's Age of Reason, sold by him, to be 3000, at half a guinea a copy. After some legal objections to the conviction had been urged by Mr. Denman, but overruled by the court; and after the defendant had spoken once more in his own behalf, and the attorney-general had replied, judgment was pronounced by Mr. Justice Bayley in the following words:

"The sentence of the court upon you, Richard Carlile, is, that for the first offence of which you have been found guilty, the publication of *Paine's Age of Reason*, you pay a fine to the king of £1000, and be imprisoned in the county jail of Dorset, in the town of Dorchester; and that for the second offence, the publication of *Palmer's Principles of Nature*, you pay a further fine of £500, and be further imprisoned for one year in the said jail of Dorchester. And that you be further imprisoned until those fines are paid, and also until you give security yourself, in £1000, and two others in the sum of £100 each, that you be of the peace and good behaviour for the term of your natural life."

The sheriffs, Rothwell and Parkins, instantly levied the fines by seizing on Carlile's stock.

THE END.